

No. 15626 ✓

United States
Court of Appeals
for the Ninth Circuit

WONG HO, as Guardian ad Litem of WONG
KWOK WEI, Appellant,
vs.

JOHN FOSTER DULLES, as Secretary of State,
Appellee.

Transcript of Record

Appeal from the United States District Court for the
Southern District of California,
Central Division

FILED

OCT - 1957

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Transcript of Record

Appeal from the United States District Court for the
Southern District of California,
Central Division

REPORT

ON THE

PROGRESS OF THE

WORK

OF THE

COMMISSIONERS

OF THE

LAND OFFICE

FOR THE YEAR 1861

BY

JOHN R. HARRIS

CHIEF CLERK

OF THE

LAND OFFICE

WASHINGTON

1862

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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in italic; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in italic the two words between which the omission seems to occur.]

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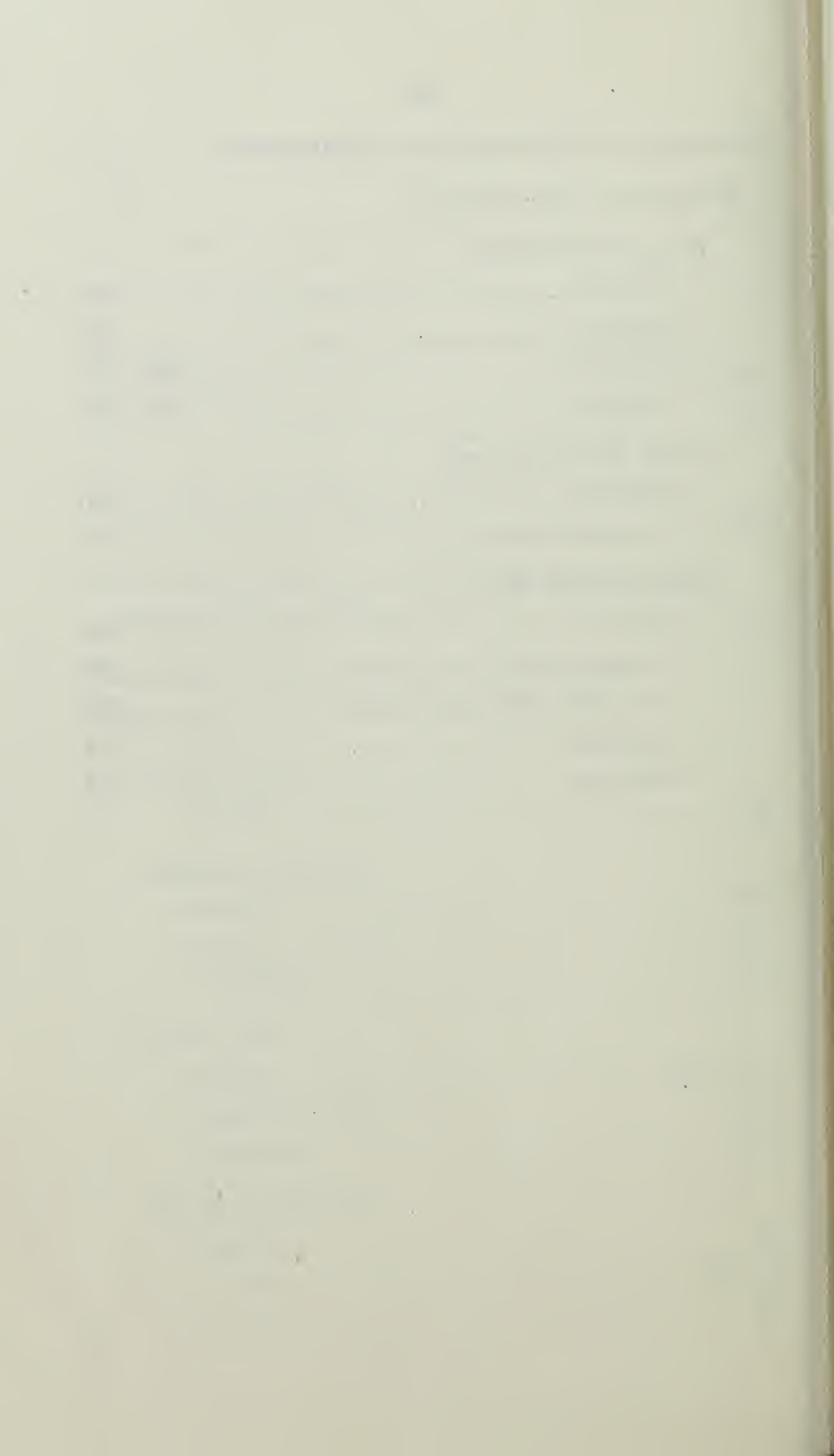
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NAMES AND ADDRESSES OF ATTORNEYS

For Appellant:

JACKSON & HERTOGS,
580 Washington Street,
San Francisco, California.

For Appellee:

LAUGHLIN E. WATERS,
United States Attorney,

RICHARD A. LAVINE,
Assistant United States Attorney,
Chief, Civil Division,

JAMES R. DOOLEY,
Assistant United States Attorney,
600 Federal Building,
Los Angeles 12, California. [1]*

* Page numbers appearing at bottom of page of Original Transcript of Record.

In the United States District Court, Northern
District of California, Southern Division

No. 30489

Southern District No. 20144-BH

WONG KWOK KEUNG and WONG HO, as
Guardian ad Litem of WONG KWOK WEI,
Plaintiffs,

vs.

DEAN ACHESON as Secretary of State,
Defendant.

PETITION FOR DECLARATORY JUDGMENT
UNDER SECTION 503 OF THE NATION-
ALITY ACT OF 1940

Come now the plaintiffs, Wong Kwok Keung and
Wong Kwok Wei, by his guardian ad litem, Wong
Ho, complain of the defendant and for causes
allege:

I.

For the purpose of this action Wong Ho was
appointed by the above-entitled Court and now is
the guardian ad litem of plaintiff, Wong Kwok
Wei, minor;

II.

That the said plaintiffs are the true and lawful
blood children of Wong Ho who is a native of the
United States; that as evidence of United States
citizenship, Wong Ho holds Certificate of Identity

No. 14761 issued April 28, 1914, by the Immigration Service at San Francisco, California;

III.

That the said Wong Ho was first admitted to the United [2] States as a citizen thereof on April 22, 1914, at San Francisco, California, ex SS "Manchuria"; following his departure for China on December 1, 1912, ex SS "Mongolia"; that Wong Ho has been a permanent of the State of California since his birth and now resides in San Francisco, California; that since his original admission in 1914, Wong Ho has made two trips from the United States to China, departing and returning at the Port of Seattle, Washington, on the dates and vessels shown:

Departed December 10, 1921, ex SS "Palm Tree State"

Returned December 1931 ex vessel of Blue Funnel Lines

Departed June 2, 1934, ex SS "Empress of Canada"

Returned July 1937 ex SS "President Jackson"

IV.

That the said Wong Ho was married to Yee Shee on CR 1-12-10 (January 16, 1913) at Wong Oak Village, Hoyping District, Kwangtung Province, China; that such marriage was contracted in accordance with the marriage customs and ceremonies approved and legally recognized in China; that no official record of such marriage is available in

China so far as Wong Ho is informed; that the plaintiff Wong Kwok Keung was born at Chung Hing Village, Toyshan District, Kwangtung Province, China, on CR 11-9-3 (October 22, 1922); that the plaintiff Wong Kwok Wei was born at Chung Hing Village, Toyshan District, Kwangtung Province, China, on CR 24-3-28 (April 30, 1935); that the plaintiffs, Wong Kwok Keung and Wong Kwok Wei, are issues of the aforesaid marriage of Wong Ho and Yee Shee; that the marriage and the birth of said plaintiffs were duly reported to the Immigration and Naturalization Service by the said Wong Ho upon each and every occasion of his examination by that Service;

V.

That the said Wong Ho is and has been for more than the past ten years a resident within the Northern District of California, and that the petitioners, Wong Kwok Keung and Wong Kwok Wei, claim [3] permanent residence in the Northern District of California and within the jurisdiction of this Court.

VI.

That the said Wong Ho caused to be filed with the American Consulate General at Hong Kong on or about March 8, 1950, an application for the issuance of a United States Passport or travel document in behalf of the plaintiff, Wong Kwok Keung; that the said Wong Ho caused to be filed with the same official on or about the 12th of April, 1950 a similar application in behalf of the plaintiff, Wong

Kwok Wei; that the plaintiffs, Wong Kwok Keung and Wong Kwok Wei, were advised by the American Consulate General at Hong Kong in a letter dated April 15, 1951, that their applications had been disapproved; and that a copy of the letter from the American Consulate General dated April 15, 1951, is attached hereto, marked Exhibit "A", and made a part hereof as if fully incorporated herein;

VII.

That Section 1993, United States Revised Statutes, as amended by the Act of May 24, 1934, and the Nationality Act of 1940, provides that a child born in a foreign country of a United States citizen parent must reside in the United States for at least five years prior to attaining the age of 21 years, viz., that he must arrive prior to attaining the age of sixteen years; said plaintiff, Wong Kwok Wei, attains the age of sixteen years, American calendar, on April 30, 1951; that the said Wong Kwok Wei claims that the refusal of the American Consulate General at Hong Kong to permit the said Wong Kwok Wei to proceed to the United States prior to attaining the age of 16 years is an arbitrary and unreasonable refusal or a denial of a right or privilege of a United States national; and that the said plaintiff Wong Kwok Keung claims that the refusal of the American Consulate General at Hong Kong to recognize his claim to United States citizenship is a denial [4] of a right or privilege of a United States national;

VIII.

That the defendant is the duly appointed, qualified, and acting Secretary of State of the United States; that the plaintiffs' applications for documentation as United States citizens were denied by the American Consulate General at Hong Kong, an official executive of the defendant herein, on or about April 5, 1951; that the Department of State through its official executive at Hong Kong, did, on or about April 5, 1951, deny the plaintiffs, Wong Kwok Keung and Wong Kwok Wei, a right or privilege as nationals of the United States;

IX.

That this complaint is filed and these proceedings are instituted against the defendant under Section 503, Nationality Act of 1940 (54 Stat. 1171, 1172, 8 USC 903), for a judgment declaring the plaintiffs to be nationals of the United States;

X.

That the plaintiffs have never committed any act nor executed any instrument of expatriation nor renounced their United States citizenship; that the plaintiffs are entitled to be declared nationals of the United States;

XI.

That the plaintiff, Wong Kwok Keung, claims to be a United States citizen and/or national such citizenship and/or nationality having been acquired pursuant to the provisions of Section 1993, Revised Statutes of the United States, and that the plain-

tiff, Wong Kwok Wei, claims to be a United States citizen and/or national such citizenship and/or nationality having been acquired pursuant to the provisions of Section 1993, United States Revised Statutes, as amended by the Act of May 24, 1934, and Section 201(g) of the Nationality Act of 1940 (8 U.S.C.A. 601(g));

Wherefore, plaintiffs pray for judgment declaring them to [5] be nationals of the United States and for such other and further relief as may be just and proper.

JACKSON & HERTOGS,
/s/ By JOSEPH S. HERTOGS,
Attorneys for Plaintiffs. [6]

EXHIBIT "A"

The Foreign Service
of the
United States of America
American Consulate General,
P. O. Box No. 66,
Hong Kong, April 5, 1951.

Messrs. Wong Kwok Keung & Wong Kwok Wei,
c/o Mr. Wong Tai Ming, 101 Bonham Strand,
East, Hong Kong

Dear Sirs:

With reference to your applications for documentations to enable you to proceed to the United States, you are informed that in view of your failure to establish your identities as sons of American

citizen, the Consulate General has disapproved your applications and declines to afford you facilities for the execution of an affidavit for the purpose of traveling to the United States.

Very truly yours,

For the Consul General,
/s/ JOHN N. GATCH, JR.,
American Vice Consul. [7]

[Endorsed]: Filed Apr. 23, 1951 in U. S. District Court, Northern District. Filed July 2, 1956 in Southern District.

[Title of District Court and Cause.]

ANSWER

Comes now Dean Acheson, Secretary of State of the United States, defendant in the above-entitled action, by and through his attorneys, Chauncey Tramutolo, United States Attorney, and Edgar R. Bonsall, Assistant United States Attorney, and in answer to plaintiff's complaint admits, denies, and alleges as follows:

I.

Answering paragraph I of the complaint, defendant admits the allegations contained in paragraph I of the complaint.

II.

Answering paragraph II of the complaint, defendant admits that Wong Ho has been recognized by the Immigration and Naturalization Service as a citizen of the United States; but denies that Wong

Kwok Keung and Wong Kwak Wei are the true and lawful blood children of Wong Ho. [13]

III.

Answering Paragraph III of the complaint, defendant admits that the said Wong Ho was admitted to the United States as a citizen thereof on April 22, 1914, at San Francisco, California; that Wong Ho departed from the United States to China through the Port of Seattle, Washington on December 10, 1921 and returned at the same Port of Seattle, Washington, in December, 1931; that he departed for China through the Port of Seattle, Washington on June 2, 1934 and returned there in July, 1937. Defendant has no knowledge, information or belief as to the other allegations contained in paragraph III of the complaint, and therefore denies the same.

IV.

Answering paragraph IV of the complaint, defendant has no knowledge, information or belief as to the allegations contained in paragraph IV of the complaint, and therefore denies the same.

V.

Answering paragraph V of the complaint, defendant has no knowledge, information or belief as to the allegations contained in paragraph V of the complaint, and therefore denies the same.

VI.

Answering paragraph VI of the complaint, defendant admits that on April 5, 1951, the American

Consulate General at Hongkong, advised Wong Kwok Keung and Wong Kwak Wei that they had failed to establish their identities as sons of an American citizen and disapproved their requests for travel affidavits allowing them to come into the United States. Defendant has no knowledge, information or belief as to the other allegations contained in paragraph VI of the complaint, and therefore denies the same. [14]

VII.

Answering paragraph VII of the complaint, defendant admits that Section 1993, United States revised Statutes, as amended by the Act of May 24, 1934, and the Nationality Act of 1940, provides that a child born in a foreign country of a United States citizen parent must reside in the United States for at least five years prior to attaining the age 21 years, viz., that he must arrive prior attaining the age of sixteen years. Defendant has no knowledge, information or belief as to the other allegations contained in paragraph VII of the complaint and therefore denies the same.

VIII.

Answering paragraph VIII of the complaint, defendant admits the allegations contained in paragraph VIII of the complaint.

IX.

Answering paragraph IX of the complaint, defendant admits that the complaint herein consti-

tutes an action seeking a judgment declaring the plaintiff to be a national of the United States.

X.

Answering paragraph X of the complaint, defendant has no knowledge, information or belief as to the allegations contained in paragraph X of the complaint, and therefore denies the same. Defendant affirmatively asserts that the plaintiffs are not now and have never been citizens of the United States and are not entitled to be declared nationals of the United States.

XI.

Answering paragraph XI of the complaint, defendant has no knowledge, information or belief as to the allegations contained in paragraph XI of the complaint and therefore denies the same. Defendant specifically denies that the plaintiff, [15] Wong Kwok Keung, has acquired United States citizenship under the provisions of Section 1993 of the United States Revised Statutes of the United States; and denies that plaintiff, Wong Kwok Wei, has acquired United States citizenship under the provisions of Section 1993, United States Revised Statutes, as amended by the Act of May 25, 1934, and Section 201(g) of the Nationality Act of 1940 (8 U.S.C.A. 601(g)):

Wherefore, defendant prays that each and every relief sought by the plaintiffs be denied; that this Court declare a judgment in favor of the defendant; that plaintiffs have never been citizens or nationals of the United States; and that the defend-

ant recover his proper costs against the plaintiffs in this action.

CHAUNCEY TRAMUTOLO,
United States Attorney,
/s/ EDGAR R. BONSTALL,
By M.M.L.,
Assistant United States
Attorney. [16]

[Endorsed]: Filed July 2, 1951 in Northern District. Filed July 2, 1956 in Southern District.

[Title of District Court and Cause.]

ORDER SUBSTITUTING PARTY
DEFENDANT

The motion for substitution of party defendant in this cause coming on to be heard before the Court, and the Court being fully advised in the premises, and it appearing that the defendant, Dean Acheson, Secretary of State of the United States, has been replaced by John Foster Dulles, as Secretary of State, it is by the Court this 27th day of February, 1953,

Ordered, that John Foster Dulles, as Secretary of State, be and he is hereby substituted as party defendant in this cause in the place and stead of Dean Acheson, as Secretary of State.

/s/ GEORGE B. HARRIS,
Judge of the District Court.

[Endorsed]: Filed Feb. 27, 1953 in Northern District. Filed July 2, 1956 in Southern District.

[Title of District Court and Cause.]

STIPULATION

It is hereby stipulated and agreed between the parties hereto, by their respective attorneys duly authorized, that:

1. The plaintiff, Wong Kwok Wei, shall submit to a medical and radiological examination by the United States Public Health Service at San Francisco, California for the purpose of determining the said Wong Kwok Wei's approximate age.

2. That the defendant shall deliver to counsel for the plaintiff a copy of a detailed written report of the examining doctors and radiologists.

/s/ EDGAR R. BONSALE,
Assistant United States Attorney,
Attorney for Defendant.

/s/ JOSEPH S. HERTOGE,
Attorney for Plaintiffs. [35]

[Endorsed]: Filed Feb. 21, 1952 in Northern District. Filed July 2, 1956 in Southern District, Plaintiff's Exhibit 12 Admitted Jan. 23, 1957.

[Title of District Court and Cause.]

STIPULATION FOR CHANGE
OF VENUE

It Is Hereby Stipulated that the parties and witnesses in the above entitled matter are located within the Southern District of California, Central Division, at Los Angeles, and

It Is Further Stipulated that the above entitled action may be transferred to said district and division for the convenience of parties and witnesses.

Dated:

JACKSON & HERTOGS,
Attorneys for Plaintiffs.

LLOYD H. BURKE,
United States Attorney,
By JAMES B. SCHNAKE,
Assistant United States Attorney,
Attorneys for Defendant.

So ordered:

EDWARD P. MURPHY,
United States District Judge.

Dated: June 29, 1956.

JBS:rt

[33]

Certification Attached.

[Endorsed]: Original Filed June 29, 1956.

[Title of District Court and Cause.]

NOTICE OF TAKING DEPOSITION
ON ORAL EXAMINATION

To the Plaintiffs above named and to Jackson &
Hertogs, their attorneys:

You and Each of You Will Please Take Notice
that the defendant above named will take the depo-
sition of Dr. I. S. Bergius, who resides in Hong
Kong, B. C. C. on Monday, November 5, 1956, at
10 o'clock in the forenoon of that day, before the
Vice Consul of the United States of America, at the
American Consulate General, 58 Garden Road,
Hong Kong, B. C. C., pursuant to Rules 26 and
28(b) Federal Rules of Civil Procedure.

Dated: This 5th day of October, 1956.

LAUGHLIN E. WATERS,

United States Attorney,

MAX F. DEUTZ,

Assistant United States Attorney,

Chief of Civil Division,

/s/ JAMES R. DOOLEY,

Assistant United States Attorney,

Attorneys for Defendant. [36]

Affidavit of Service by Mail Attached.

[Endorsed]: Filed Oct. 5, 1956.

United States District Court, Southern District
of California, Central Division

No. 20144-HW Civil

WONG KWOK KEUNG, and WONG HO as
Guardian ad Litem of WONG KWOK WEI,
Plaintiffs,

vs.

JOHN FOSTER DULLES, as Secretary of State,
Defendant.

FINDINGS OF FACT, CONCLUSIONS OF
LAW AND JUDGMENT AS TO PLAIN-
TIF, WONG KWOK WEI

The above cause having come on regularly for trial on January 22, 1957, January 23, 1957, January 24, 1957, and February 12, 1957 in the above entitled Court, before the Hon. Harry C. Westover, Judge Presiding without a jury; the plaintiffs being represented by their attorneys, Jackson & Hertogs, by Joseph S. Hertogs, and the defendant being represented by his attorneys, Laughlin E. Waters, United States Attorney, Max F. Deutz and James R. Dooley, Assistant United States Attorneys, by James R. Dooley, and evidence both oral and documentary having been introduced and received on behalf of both the plaintiffs and the defendant, and the Court having considered the same; and the Court having heard the arguments of counsel, and being fully advised in the premises, now makes the

following Findings of Fact, Conclusions of Law and Judgment as to the plaintiff, Wong Kwok Wei: [38]

Findings of Fact

I.

At the time the within action was filed plaintiff, Wong Kwok Wei, claimed permanent residence within the Northern District of California; the within action having been thereafter transferred to this Court.

II.

The defendant, John Foster Dulles, is the duly appointed, qualified, and acting Secretary of State of the United States, and as such is the head of the Department of State.

III.

Plaintiff, Wong Kwok Wei, applied at the American Consulate General, Hong Kong, B. C. C. for documentation to enable him to proceed to the United States as a citizen of the United States.

IV.

Before the within action was commenced the defendant denied the aforementioned application of plaintiff, Wong Kwok Wei, for documentation. By reason of such denial, said plaintiff was denied a right or privilege as a national of the United States by the defendant upon the ground that he was not a national of the United States.

V.

Plaintiff, Wong Kwok Wei, alleges that he was

born on April 30, 1935; that he is the true and lawful blood child of Wong Ho, his alleged father; and that he acquired nationality and/or citizenship through his alleged father pursuant to the provisions of Section 1993, Revised Statutes of the United States, as amended.

VI.

The deposition of Dr. Iain S. Bergius received in evidence on behalf of the defendant, together with the radiograph annexed thereto, shows that on March 14, 1951 plaintiff, Wong Kwok Wei, was, [39] according to bone age determination, considerably younger than his claimed age. Based upon this deposition, as reinforced by the testimony of Dr. George Jacobson, called as an expert witness on behalf of the plaintiff; the Court finds that the person who purports to be Wong Kwok Wei and who applied for documentation at the American Consulate General, Hong Kong, B. C. C. was not born on April 30, 1935 as claimed, but after the latter date; and that plaintiff Wong Kwok Wei, has not sustained his burden of proving that he is the true and lawful blood son of Wong Ho; nor has said plaintiff sustained his burden of proving that the person who purports to be Wong Kwok Wei, is in truth and in fact Wong Kwok Wei.

VII.

The plaintiff, Wong Kwok Wei, had the burden of proving that he is the lawful blood son of Wong Ho, which was the burden of proof ordinarily ap-

plicable to civil actions; however, the medical testimony as to plaintiff's age has so rebutted the evidence offered on his behalf that said plaintiff has failed to sustain his burden of proof.

VIII.

The plaintiff, Wong Kwok Wei, has failed to sustain his burden of proving that he is a national or citizen of the United States.

Conclusions of Law

I.

This Court has jurisdiction of the within action pursuant to Section 503 of the Nationality Act of 1940, 54 Stat. 1171, 8 U.S.C.A. § 903.

II.

The burden was upon the plaintiff, Wong Kwok Wei, to [40] establish his claim to United States citizenship and/or nationality, which was the burden of proof ordinarily applicable to civil actions, and said plaintiff has failed to sustain his burden.

III.

Judgment should be entered in favor of the defendant and against the plaintiff, Wong Kwok Wei, denying the relief prayed for by said plaintiff and awarding to the defendant his costs and disbursements.

IV.

Let Judgment be entered accordingly.

Judgment

In accordance with the foregoing Findings of Fact and Conclusions of Law,

It Is Ordered, Adjudged and Decreed:

I.

That judgment be and the same is hereby entered in favor of the defendant and against the plaintiff, Wong Kwok Wei, denying the relief prayed for by said plaintiff, and awarding to the defendant his costs and disbursements. Costs taxed at \$.

Dated: This 12th day of March, 1957.

/s/ HARRY C. WESTOVER,
Judge, U. S. District Court.

Photograph attached 3/25/57 pursuant to stipulation and order of court, filed 3/22/57 & entered 3/25/57.

[Seal] JOHN A. CHILDRESS,
Clerk, U. S. District Court, Southern District of California,

/s/ By C. A. SIMMONS,
Deputy. [41]

Affidavit of Service by Mail Attached.

[Endorsed]: Filed March 12, 1957. Docketed and Entered March 13, 1957.

United States District Court, Southern District
of California, Central Division

No. 20144-HW Civil

WONG KWOK KEUNG, and WONG HO as
Guardian ad Litem of WONG KWOK WEI,
Plaintiffs,

vs.

JOHN FOSTER DULLES, as Secretary of State,
Defendant.

FINDINGS OF FACT, CONCLUSIONS OF
LAW AND JUDGMENT AS TO PLAIN-
TIF, WONG KWOK KEUNG

The above cause having come on regularly for trial on January 22, 1957, January 23, 1957, January 24, 1957 and February 12, 1957 in the above entitled Court, before the Hon. Harry C. Westover, Judge Presiding without a jury; the plaintiffs being represented by their attorneys, Jackson & Hertogs, by Joseph S. Hertogs, and the defendant being represented by his attorneys, Laughlin E. Waters, United States Attorney, Max F. Deutz and James R. Dooley, Assistant United States Attorneys, by James R. Dooley, and evidence both oral and documentary having been introduced and received on behalf of both the plaintiffs and the defendant, and the Court having considered the same; and the Court having heard the arguments of counsel, and being fully advised in the premises,

now makes the following Findings of Fact, Conclusions of Law and Judgment as to the plaintiff Wong Kwok Keung: [43]

Findings of Fact

I.

At the time the within action was filed, plaintiff Wong Kwok Keung claimed permanent residence within the Northern District of California; the within action having been thereafter transferred to this Court.

II.

The defendant, John Foster Dulles, is the duly appointed, qualified, and acting Secretary of State of the United States, and as such is the head of the Department of State.

III.

Plaintiff, Wong Kwok Keung, applied at the American Consulate General, Hong Kong, B.C.C. for documentation to enable him to proceed to the United States as a citizen of the United States.

IV.

Before the within action was commenced the defendant denied the aforementioned application of plaintiff Wong Kwok Keung for documentation. By reason of such denial, said plaintiff was denied a right or privilege as a national of the United States by the defendant upon the ground that he was not a national of the United States.

V.

Plaintiff, Wong Kwok Keung, was born at Chung

Hing Village, Toyshan District, Kwantung Province, China, on October 22, 1922.

VI.

Plaintiff, Wong Kwok Keung, is the true and lawful blood son of Wong Ho.

VII.

Wong Ho, father of plaintiff Wong Kwok Keung, is a native-born citizen of the United States. [44]

Conclusions of Law

I.

Plaintiff, Wong Kwok Keung, acquired United States nationality at birth under the provisions of Section 1993, Revised Statutes of the United States.

II.

Plaintiff, Wong Kwok Keung, is now, and ever since his birth has been a national of the United States.

III.

Plaintiff, Wong Kwok Keung, is entitled to have his nationality confirmed by an appropriate decree of this Court pursuant to the provisions of Section 503 of the Nationality Act of 1940.

Declaratory Judgment of Nationality

In accordance with the foregoing Findings of Fact and Conclusions of Law,

It Is Ordered, Adjudged And Decreed:

I.

That the plaintiff, Wong Kwok Keung, is now,

and ever since his birth has been, a national of the United States.

II.

This Judgment is made pursuant to and under the authority of Section 503 of the Nationality Act of 1940.

Dated: This 12th day of March, 1957.

Costs Taxed \$20.00 3/15/57—No obj.

/s/ HARRY C. WESTOVER,
Judge, U. S. District Court.

Affidavit of Service by Mail Attached.

[Endorsed]: Filed March 12, 1957. Docketed and Entered March 13, 1957. [45]

[Title of District Court and Cause.]

NOTICE OF APPEAL AS TO PLAINTIFF,
WONG KWOK WEI

Notice is hereby given this 10th day of April, 1957, that Wong Kwok Wei hereby appeals to the United States Court of Appeals for the Ninth Circuit from the judgment of this Court which was filed and entered on the 13th day of March, 1957, in favor of the defendant and against the said Wong Kwok Wei, plaintiff.

JACKSON & HERTOGS,
/s/ By JOSEPH S. HERTOGS,
Attorneys for Plaintiff.

[Endorsed]: Filed April 24, 1957. [47]

[Title of District Court and Cause.]

CERTIFICATE BY CLERK

I, John A. Childress, Clerk of the above-entitled Court, hereby certify that the items listed below constitute the transcript of record on appeal to the United States Court of Appeals for the Ninth Circuit, in the above-entitled cause:

A. The foregoing pages numbered 1 to 50, inclusive, containing the original

Petition for Declaratory Relief; Answer; Stipulation dated February 21, 1952 (now exhibit 12); Order Substituting Party Defendant; Order for Change of Venue; (These are found under one cover attached to Petition)

Notice of Taking Deposition on oral examination;

Findings of Fact, Conclusions of Law & Judgment as to Wong Kwok Wei;

Findings of Fact, Conclusions of Law & Judgment as to Wong Kwok Keung;

Notice of Appeal;

Designation of Record on Appeal;

B. 3 volume of reporter's official transcript of proceedings for January 22, 1957; January 23, 1957; January 24 and February 12, 1957;

C. Plaintiff's exhibits 1 through 14, inclusive and defendant's exhibits A, B & C.

I further certify that my fee for preparing the foregoing record, amounting to \$1.60, has been paid by appellant.

Witness my hand and seal of the said District Court this 11th day of July, 1957.

[Seal] JOHN A. CHILDRESS, Clerk,
/s/ By CHARLES E. JONES, Deputy.

In the United States District Court, Southern
District of California, Central Division

No. 20144-HW Civil

WONG KWOK KEUNG and WONG HO, as
guardian ad litem of WONG KWOK WEI,
Plaintiffs,

vs.

JOHN FOSTER DULLES, Secretary of State,
Defendant.

REPORTER'S TRANSCRIPT OF
PROCEEDINGS

Los Angeles, California
Tuesday, January 22, 1957
10 A.M.

Honorable Harry C. Westover, Judge Presiding.

Appearances: For the Plaintiffs: Joseph S. Hertogs, Esq., 580 Washington Street, San Francisco, California. For the Defendant: Laughlin E. Waters, United States Attorney; by James R. Dooley, Assistant United States Attorney. [1]*

* Page numbers appearing at top of page of Reporter's Original Transcript of Record.

The Clerk: No. 20144-HW Civil, Wong Kwok Keung and Wong Ho, as guardian ad litem of Wong Kwok Wei, vs. John Foster Dulles, Secretary of State, trial.

Mr. Hertogs: Ready for the plaintiff, your Honor.

Mr. Dooley: Ready for the defendant.

The Court: You may proceed.

Mr. Hertogs: There are two things that I would like to bring to the attention of the court, if I might. The first I just found out about fifteen minutes ago. If there is no objection on the part of the government to Mrs. Chan as interpreter, we can go ahead, but one of the parties has met Mrs. Chan's husband because they both are graduates of the same university.

The Court: Mr. Dooley has been examining the interpreters to ascertain whether or not they know any of the parties or have ever talked to them. Even if they said they did not know him, I don't think that would disqualify the interpreter.

Mr. Hertogs: I think we are going to be able to take most of the testimony in English, practically all of it, but I prefer to have the interpreter stand by and if there is any difficulty, we can use her, but I did want to explain that. [3]

In this case I am going to proceed a little differently than normal. I am going to call one of the witnesses who is a brother first. The reason for that is another brother who is to testify in this case owns and operates a grocery store in the city, and it is necessary for this first witness to replace him

at the market so he can come down here and testify. It is necessary that one of the brothers remain in the market at all times. So the first witness in this action will be Wong Kwok Foo.

The Court: Swear the interpreter.

LILY L. CHAN

being first duly sworn as interpreter, was called as a witness and testified as follows:

Direct Examination

Q. (By Mr. Dooley): Mrs. Chan, are you related to the plaintiffs in this case? A. No.

Q. Do you know the witnesses who are to appear in this case today?

A. I haven't seen them before until this morning.

Q. Have you discussed the facts of this case with anyone before the present time? A. No. [4]

Mr. Dooley: That's all.

(Witness excused.)

The Court: I will make the customary order that all witnesses be excluded except the witness who is testifying.

Mr. Hertogs: Certainly.

WONG KWOK FOO

called as a witness herein by and on behalf of the plaintiffs, having been first duly sworn, was examined and testified as follows:

The Clerk: Will you take the stand and state your name, please?

The Witness: Wong Kwok Foo.

Direct Examination

Q. (By Mr. Hertogs): Mr. Wong, it is necessary for Mr. Dooley to hear you, so would you speak up rather loudly so he can hear your answers?

A. Yes, I try.

Q. Where do you live, Mr. Wong?

A. Right now I live at 3424 Edgehill Drive.

Q. Is that in Los Angeles?

A. Yes, in Los Angeles. [5]

Q. Where were you born?

A. I was born in China.

Q. In what village in China?

A. Chung Hing, China. Chung Hing Village.

Q. When did you come to the United States?

A. I came here in 1939.

Q. At the time of your arrival in 1939, were you issued a certificate of identity by the Immigration Service?

A. Yes.

Q. Do you have the certificate of identity with you?

A. Yes, in my pocket.

Q. May I see it, please?

A. Yes. (Handing document to Mr. Hertogs.)

Mr. Hertogs: I will ask that this be marked as the first exhibit in order for identification.

(Testimony of Wong Kwok Foo.)

The Court: It may be marked Exhibit 1.

The Clerk: Plaintiff's Exhibit 1 for identification.

(The document referred to was marked as Plaintiff's Exhibit No. 1 for identification.)

Q. (By Mr. Hertogs): I will show you Exhibit No. 1 for identification and ask you if that is your picture. A. Yes, that is my own picture.

Q. Is that the document that was issued to you by the Immigration Service? [6] A. Yes.

Mr. Hertogs: I will ask that it be admitted in evidence, your Honor.

The Court: It may be admitted in evidence.

The Clerk: Exhibit 1.

(The document referred to was received in evidence and marked as Plaintiff's Exhibit No. 1.)

Q. (By Mr. Hertogs): What is the name of your father?

A. My father's name is Wong Ho.

Q. Does he have a marriage name or another name?

A. Yes, he is known as Wong Wo Hing.

Q. Where does your father reside at the present time? A. With me at 3424 Edgehill Drive.

Q. What is the name of your mother?

A. My mother maiden name Yee Fong Yee. We used to spell it as F-e-n-g or F-o-n-g, and then Shee. The maiden name was Yee Fong Shee.

Q. Where is your mother at the present time?

(Testimony of Wong Kwok Foo.)

A. Right now she reside at Hong Kong.

Q. Where is the last place that you saw your mother?

A. That was in Chung Hing Village.

Q. When were you last in Chung Hing Village?

A. That was during the middle part of September 1949 in American calendar.

Q. Following your original arrival and admission, how [7] many trips have you made back to China?

A. Let's see. Since I have been here, just once to China.

Q. How long were you in China on that trip?

A. I arrive at home about—I would say approximately 21 months in China.

Q. At the time of your arrival at the port of entry on the first occasion, were you examined by the Immigration Service and asked a lot of questions?

A. Not too many, no.

Mr. Hertogs: I would ask at this time that the official Immigration and Naturalization Service file relating to the admission of this witness, Wong Kwok Foo, be produced by the defendant.

Mr. Dooley: For what purpose?

Mr. Hertogs: To show his prior testimony.

Mr. Dooley: That is hearsay.

Mr. Hertogs: It is always hearsay evidence when it goes to pedigree, your Honor.

The Court: If the government was trying to introduce this testimony, I would sustain an objec-

(Testimony of Wong Kwok Foo.)

tion. I have sustained an objection consistently. I don't know why you stand in any better position than the government. The government has issued the certificate of identity, and if there is anything wrong with the certificate or anything wrong [8] with the admission, the burden is upon the government to prove it. The plaintiff doesn't have to prove it is all right.

It may be that when Mr. Dooley gets through, you may be able to get the record in, but at this time I don't think the record is admissible.

Mr. Hertogs: At this time I would ask the government to produce the application for documentation filed by the plaintiffs in this action.

The Court: Just a minute. I don't think you can get the file and record, but you can require the government to produce it for your examination. If you want to do that, I will be glad to require the government to produce it.

Mr. Hertogs: Yes.

The Court: And I will be glad to have it marked for identification.

Mr. Hertogs: May we have it marked as Exhibit No. 2 for identification?

The Court: Yes, for identification.

The Clerk: 2 for identification.

(The document referred to was marked as Plaintiffs' Exhibit No. 2 for identification.)

The Court: Is this the Immigration file?

The Clerk: Yes, your Honor, of this witness.

(Testimony of Wong Kwok Foo.)

The Court: You understand I am not ruling out the Immigration file yet. [9]

Q. (By Mr. Hertogs): How many brothers and sisters do you have?

The Court: Just a minute. You have asked——

Mr. Hertogs: I will withdraw the request that it be admitted at this time. I will renew it later.

The Court: But you asked for the application, I believe, that was made.

Mr. Hertogs: I was going to ask a couple of questions first.

The Court: All right.

Q. (By Mr. Hertogs): How many brothers and sisters do you have?

A. Six brothers all together, I mean with myself.

Q. That is including yourself?

A. Yes, including myself.

Q. What is the name of your first brother?

A. My first brother's name is Wong Lun Kwong.

Q. Will you spell that, please?

A. Well, I don't know. It is so different. Lun, L-u-n, and Kwong, K-w-o-n-g.

Q. Where was he born?

A. He was born in China.

Q. In what village?

A. I believe he was born in—it was not the same village where I was born. He was born in Wong Oak Village. [10]

(Testimony of Wong Kwok Foo.)

Q. Where is he at the present time?

A. He is in Seattle, Washington.

Q. Does he have any family living in China?

A. No, he doesn't have.

Q. What is the name of your second brother?

A. My second brother is Wong Kwok Hoy.

Q. Will you spell that?

A. Kwok, K-w-o-k, Hoy, H-o-y.

Q. Where was Wong Kwok Hoy born?

A. He was born in Chung Hing Village, the same village where I was born.

Q. Where does Wong Kwok Hoy reside at the present time?

A. Right now he live here in Los Angeles.

Q. Where does he live in Los Angeles?

A. His house number is 206 West 104th Street.

Q. Is he in business in the city of Los Angeles?

A. Yes, he has a business.

Q. Where is his business located?

A. Located on 10420 South Main Street, Los Angeles.

Q. When did Wong Kwok Hoy enter the United States.

A. I believe he came here in 1933.

Q. What is the name of your third brother?

A. My third brother's name is Wong Kwok Keung.

Q. Will you spell the last one? [11]

A. K-e-u-n-g.

Q. Where was he born?

(Testimony of Wong Kwok Foo.)

A. He was born in the same village as I was born.

Q. What is the name of this village?

A. Chung Hing Village.

Q. What district in China is that located in?

A. That is located in Toy Shan.

Q. Do you know the date of his birth?

A. I don't recall the exact date. I believe he was born in 19— let's see. He was born in 1922, but the month and the day, I don't recall.

Q. Can you tell us in Chinese calendar?

A. Oh, let me see. I don't know whether he was born—either in September or— I really can't remember exactly.

Q. Where does Wong Kwok Keung live at the present time?

A. Right now he live in Los Angeles. They have a living quarter in the business at 10420 South Main Street.

Q. Does he live in the place behind the business?

A. Yes, is a living quarter.

Q. Are you referring to the business owned and operated by Wong Kwok Hoy?

A. That's right.

Q. When did Wong Kwok Keung come to the United States?

A. Let's see. It was in 1952, the early part of 1952. [12] Whether it was in February—I think around February, first part of February 1952.

Q. What is the name of your fourth brother?

(Testimony of Wong Kwok Foo.)

A. That would be myself, sir. I happen to be the fourth one.

Q. What is the name of your fifth brother?

A. Wong Kwok Wei.

Q. How do you spell that? A. W-e-i.

Q. Where was he born?

A. He was born in Chung Hing Village.

Q. That is the same village as the place of your birth? A. Yes, the same place.

Q. Do you know the date of his birth?

A. I can only give you the year, but not the exact month and day.

Q. What is the year?

A. I think it is in 1935.

Q. Can you recall the approximate month?

A. The approximate month?

Q. Either American or Chinese, if you tell us which one you are talking about.

A. I really don't know my younger brother's birth.

Q. Where does he live at the present time?

A. He also right at present living at the same place [13] with Kwok Keung. They both live there behind 10420.

Q. South Main Street?

A. South Main Street, yes.

Q. What is the name of your sixth brother?

A. My sixth brother is Wong Kwok Jin.

Q. How do you spell that?

A. I think J-i-n, they say.

(Testimony of Wong Kwok Foo.)

Q. Where was he born?

A. He born in Chung Hing Village.

Q. Where is he now?

A. Right now he is still there.

Q. By "there," you refer to Chung Hing Village?
A. Yes.

Q. There was a gentleman sitting in the court room who was taken out as a prospective witness in the case, an older person. What is the name of that person?

A. The name of the person—you mean my father, Wong Ho?

Q. Was he taken out of this court room as a witness?
A. Yes.

Q. Is he the person that lives with you?

A. Yes. He is the one who is living in my house now.

Q. Is he the father of all these brothers that you have named?
A. Yes. [14]

Q. How many times has your father been married?
A. Just once.

Q. Is your mother also the mother of these other brothers?
A. Yes.

Q. When is the first time you ever recall seeing Kwok Keung?
A. The last time?

Q. No, the first time.

A. Oh, the first time. Let's see. Since we were growing together. Is that what you mean? Way back as far as my memory, or do you mean after we separated?

(Testimony of Wong Kwok Foo.)

Q. As far as your memory.

A. As far as I remember him from very small child playing together.

Q. Did you and Kwok Keung live together until you came to the United States? A. Yes.

Q. Did you both identify the same person as your mother? A. Oh, yes.

Q. Were you in Chung Hing Village at the time of the birth of Kwok Wei?

A. Yes. I was home then, yes.

Q. Do you remember the birth of Kwok Wei?

A. I remember the occasion, but not the—of course, the exact—I mean the circumstances. I was just a small boy then. No, I don't remember any outstanding things to point out, I don't.

Q. Do you remember a child being raised in your home?

A. Yes, being born in our house, but that is about all I can say.

Q. Is the boy who is here in the United States at the present time the same person as that child who was born in your home?

A. Yes, as far as my own recognition, yes, I recognize him, yes.

Mr. Hertogs: At this time I would ask that the defendant produce the passport application file of the plaintiffs herein.

(Mr. Dooley handing documents to Mr. Hertogs.)

Mr. Hertogs: May we have this marked as plain-

(Testimony of Wong Kwok Foo.)

tiffs' exhibit next in order for identification, your Honor?

The Court: It may be marked Exhibit 3 for identification.

The Clerk: Exhibit 3.

(The exhibit referred to was marked as Plaintiffs' Exhibit No. 3 for identification.)

Q. (By Mr. Hertogs): I will show you in Plaintiffs' Exhibit No. 3 for identification a passport application [16] executed before the American Consulate General at Hong Kong on March 5, 1951, and ask you if you can identify the picture on the reverse side of that application.

A. Yes, that is Kwok Wei.

Q. Who is Kwok Wei?

A. That is my brother, my sixth brother.

Q. Is that the person that was born in your home in China? A. Yes.

Q. Who is the mother of that child?

A. Yee Fong Yee.

Q. Who is Yee Fong Yee?

A. My mother.

Q. Is she also the wife of Wong Ho?

A. Yes.

Q. Your father? A. Correct.

Q. I will also show you a picture contained on the reverse side of the application executed at the office of the American Consul General, Hong Kong, May 24, 1951, which is likewise contained in Plaintiffs' Exhibit No. 3 for identification. I will ask you if you can recognize that photograph.

(Testimony of Wong Kwok Foo.)

A. Yes. That is Wong Kwok Keung, my third brother.

Q. That is your third brother? [17]

A. Yes.

Q. I will also show you some pictures——

Mr. Dooley: Your Honor, if the plaintiff is going to offer any particular portions of the passport file in evidence before questioning the witness concerning it, I think it is proper procedure that the documents be offered or received in evidence before questioning the witness concerning them.

The Court: Not necessarily. All he has asked is to identify the pictures. He has identified the pictures. He can do that without introducing the file. Are you willing to admit that the application was made and denied?

Mr. Dooley: Yes, your Honor.

The Court: That is one of the things the plaintiff has to prove, that he made an application and there was a denial. Sometimes we don't admit that, but you are willing in this case to admit that there was an application and a denial?

Mr. Dooley: Yes, your Honor. I don't know what portions of the passport file Mr. Hertogs intends to introduce in evidence. In order to keep the record straight, perhaps each document he shows the witness should be marked separately so that the court can pass upon the admissibility of the various documents as he offers them.

The Court: Mr. Dooley, if I remember correctly, in [18] other cases you have had certain parts or

(Testimony of Wong Kwok Foo.)

certain sheets of the file marked for identification and then you have introduced them without introducing the entire file.

Mr. Dooley: I was suggesting that Mr. Hertogs do that, that if he has a document he refers to, it be marked separately so I can follow just what he is referring to, as well as the court.

Mr. Hertogs: Your Honor, I have no objection to the entire file going into evidence except for those things which are opinions or conclusions of administrative officers. Outside of that, there is so much evidence in this file that I am going to have to use a tremendous amount of it.

The Court: If there is any hearsay testimony in there, I will disregard it.

Mr. Hertogs: All right.

Mr. Dooley: I was thinking, your Honor, the defendant has no objection to the file being opened and the plaintiff taking those particular portions that are admissible out so that the exhibits can be arranged in an orderly fashion to present the picture to the court, and the court can pass on the admissibility of each one as it is offered. It eliminates confusion in my mind because as he refers to a picture, the Court of Appeals will have to search to find just what picture he is referring to, so the defendant has no objection to the seal being broken and Mr. Hertogs utilizing whatever [19] documents in there that are admissible for his particular purpose.

Mr. Hertogs: That's all right with me. I don't

(Testimony of Wong Kwok Foo.)

want to break the seal. Will Mr. Dooley break the seal?

The Court: Let Mr. Dooley do it and he can be blamed if there is any blame attached to the breaking of the seal.

Mr. Dooley: Let the record show that the passport file relating to Wong Kwok Keung and Wong Kwok Wei is being opened and the seal is being broken.

The Court: To clarify the record, counsel, which of the children by numbers are the plaintiffs in this case?

Mr. Hertogs: The plaintiffs are No. 3 and No. 5, your Honor.

We have had the entire State Department file marked as No. 3 for identification, your Honor. In view of the objections on the part of counsel for the government, I think we should just leave that entire file marked as 3 for identification, but it will not be made a part of the record since it is being broken open. I would ask that the application for passport which was executed in the case of Wong Kwok Wei at the American Consulate General in Hong Kong on the 5th of March, 1951, where the picture was shown to the witness, be introduced in evidence as Plaintiffs' exhibit next in order.

The Court: Why not make it 3-A? [20]

Mr. Hertogs: All right, your Honor.

The Court: Make it 3-A, and then it refers back to the entire file. Exhibit 3-A in evidence.

The Clerk: Exhibit 3-A.

(Testimony of Wong Kwok Foo.)

(The exhibit referred to was received in evidence and marked as Plaintiffs' Exhibit No. 3-A.)

Mr. Hertogs: I would ask that the passport application filed with the American Consulate General in Hong Kong in the case of Wong Kwok Keung, which is dated May 24, 1951, which was previously shown to this witness, be admitted in evidence as Plaintiffs' Exhibit 3-B.

The Court: It may be admitted in evidence.

The Clerk: Exhibit 3-B.

(The document referred to was received in evidence and marked as Plaintiffs' Exhibit No. 3-B.)

The Court: I notice, counsel, on 3-A there is a memorandum, "Applicant will be 16 years old on April 30, 1951, and must be in the United States before that date or he will lose his claim to American citizenship," and so forth.

I suppose that was why these two boys were admitted?

Mr. Hertogs: No, your Honor. He came after the deadline.

The Court: He came after the deadline?

Mr. Hertogs: Yes, your Honor.

The Court: Both of them did? [21]

Mr. Hertogs: Yes, your Honor.

The Court: Don't you think the record should show in this case, and the files may also show, that this case was originally filed in San Francisco because of the residence of the father?

(Testimony of Wong Kwok Foo.)

Mr. Hertogs: I thought we would cover it when the father is on the stand.

The Court: All right.

Mr. Hertogs: At this time I would ask the government to stipulate, so it won't be necessary to introduce other parts of Exhibit No. 3 for identification, the fact that both the plaintiffs herein, Wong Kwok Keung and Wong Kwok Wei, were denied passports and documentation by the American Consulate General at Hong Kong prior to the filing of this action, and, more specifically, that counsel was informed of the Department of State action on May 2, 1951, and that the plaintiffs herein were informed of such denial by the American Consulate General at Hong Kong under date of April 5, 1951?

Mr. Dooley: I will stipulate that the plaintiffs were informed of that action on April 5, 1951.

The Court: And that there was a denial?

Mr. Dooley: And that there was a denial, yes, your Honor.

The Court: May I inquire, there was a denial in [22] this case and then the action was filed?

Mr. Hertogs: That is correct, your Honor.

The Court: Then there evidently must have been a change of heart because the plaintiffs were allowed to come to this country.

Mr. Hertogs: They came in on certificates of identity. These were some of the earlier cases.

The Court: Didn't they make the application

(Testimony of Wong Kwok Foo.)

first for certificate of identity to come over and prosecute the case?

Mr. Hertogs: Following the normal procedure, your Honor, after the rejection of the application for issuance of a passport by the American Consulate General on April 5, 1951, we were informed of such action, and this suit was commenced in the United States District Court in San Francisco. Following the regulations which were promulgated under Section 503, certified copies of the complaint were served upon the Department of State in Washington, D. C., and certified copies of the complaint were forwarded to the American Consulate General at Hong Kong.

Thereafter, both of the plaintiffs in this action were called to the American Consulate General to file applications for issuance of certificates of identity which would permit them to proceed to this country solely for the purpose of appearing and testifying as witnesses. [23]

Thereafter the Department of State instructed the American Consulate General at Hong Kong to issue such certificates of identity permitting them to proceed to this country for that purpose.

I have the certificates of identity and I intend to introduce them as evidence in this case when the plaintiffs are on the stand as the documents that they had in order to obtain admission to the United States.

They are admitted in a kind of a hybrid status during the outcome of this proceeding. They are

(Testimony of Wong Kwok Foo.)

not admitted as aliens. They are not admitted as citizens. They are admitted just as plaintiffs in this action until there is a determination of citizenship or an adverse determination of citizenship by this court, and they are here under bond at the present time.

At this time, now, I would ask that the certificate of identity No. 14761, issued by the Immigration Service at San Francisco on April 28, 1954, to Wong Ho, be marked as plaintiffs' exhibit next in order for identification.

The Court: Exhibit 4 for identification.

The Clerk: Exhibit 4 for identification.

(The document referred to was marked Plaintiffs' Exhibit No. 4 for identification.)

Q. (By Mr. Hertogs): I will show you Plaintiffs' Exhibit 4 for identification, and I will ask if you recognize [24] the picture of the individual contained therein.

A. Yes. This is my father, Wong Ho.

Q. Is that the person that is residing with you today? A. Yes.

Q. Is he also the father of Wong Kwok Keung?

A. Yes.

Q. Is he also the father of Wong Kwok Wei?

A. Yes.

Mr. Hertogs: I will ask that a photograph of four individuals, which is contained in Plaintiffs' Exhibit 3 for identification, be marked as Plaintiffs' Exhibit No. 3-C for identification.

The Court: It may be marked for identification.

(Testimony of Wong Kwok Foo.)

The Clerk: 3-C.

(The photograph referred to was marked as Plaintiffs' Exhibit No. 3-C for identification.)

Q. (By Mr. Hertogs): I show you Exhibit No. 3-C for identification and ask you if you recognize any of the persons therein. A. Yes.

Q. I will ask you to name those persons from left to right, starting over here with this person at the left-hand side in the white shirt.

A. That is myself, Wong Kwok Foo.

Q. Then identify the male person in the back in the [25] middle of the picture.

A. That is my father, Wong Ho.

Q. Is that the person that is here in the court room today? A. Yes.

Q. Who is the person directly in front?

A. This is my mother, Yee Fong Shee.

Q. I will show you the one off on the right-hand side in the white shirt, and who is that?

A. Wong Kwok Keung, my third brother.

Q. Is that the person who is a plaintiff in this action? A. Yes, he is one of them.

Q. Is that the person who is presently residing with Wong Kwok Hoy at 10420 South Main Street in Los Angeles? A. Yes.

Q. Can you tell us approximately when that picture was taken?

A. I think that picture must have been taken in 1934. I think my memory goes back—yes, 1934.

Q. Do you remember where it was taken?

(Testimony of Wong Kwok Foo.)

A. Yes. It was at Canton City. Some persons might call it Kwangtung.

Mr. Hertogs: I will ask it be admitted in evidence, your Honor.

The Court: It may be received in evidence. [26]

The Clerk: Exhibit 3-C.

(The picture referred to was received in evidence and marked as Plaintiffs' Exhibit No. 3-C.)

Mr. Hertogs: So we can keep No. 3 all together, your Honor, rather than spread it out, I will ask at this time that a small photograph contained in Exhibit 3 for identification be marked as Exhibit 3-D for identification.

The Court: It may be marked.

The Clerk: 3-D for identification.

(The photograph referred to was marked as Plaintiffs' Exhibit No. 3-D for identification.)

Mr. Hertogs: I will ask that a small photograph containing about 13 individuals, which comes from the State Department file, be marked as 3-E for identification.

The Court: It may be marked 3-E for identification.

The Clerk: 3-E for identification.

(The photograph referred to was marked as Plaintiffs' Exhibit No. 3-E for identification.)

Mr. Hertogs: I am sorry to take so much time, your Honor, but I haven't seen this file before.

I will ask that a Lingnan University student card be marked as 3-F.

(Testimony of Wong Kwok Foo.)

The Court: 3-F for identification.

The Clerk: 3-F. [27]

(The document referred to was marked
Plaintiffs' Exhibit No. 3-F for identification.)

Mr. Hertogs: I will ask that a letter of Lingnan University dated January 14, 1950, be marked 3-G for identification.

The Court: It may be marked.

The Clerk: 3-G for identification.

(The document referred to was marked
Plaintiffs' Exhibit No. 3-G for identification.)

Mr. Hertogs: I would ask that all of the remaining papers which were contained in an envelope attached to and made a part of the State Department file be marked as Plaintiffs' Exhibit 3-H for identification.

The Court: It may be marked.

(The documents referred to were marked
Plaintiffs' Exhibit No. 3-H for identification.)

Mr. Dooley: I object to marking the documents in toto, because the court will have to pass upon each one separately as to their admissibility or weight.

Mr. Hertogs: I don't think it goes to the weight. It may go to the admissibility. I don't know what is in here without taking a long time to study it.

The Court: Let's mark it generally. They are in an envelope. Let's mark that 3-H for identification and at the recess you can look it over, and if you want anything [28] more out of it, you can ask.

(Testimony of Wong Kwok Foo.)

Mr. Hertogs: Or if there is any objection, he can object specifically.

The Court: The envelope may be marked, and its contents, as 3-H for identification.

The Clerk: 3-H has been marked.

Q. (By Mr. Hertogs): I will show you Plaintiffs' Exhibit No. 3-E for identification and ask if you have seen any of those people before.

A. Yes, by all means, yes.

Mr. Hertogs: It will be rather difficult to identify them. If there is no objection on the part of counsel, I would suggest we make a little number over each picture. I think that is the only way we are going to keep track of these persons. Don't you think so, Mr. Dooley? Or don't you want to deface the picture?

Mr. Dooley: It doesn't make any difference. You can place a number there.

Q. (By Mr. Hertogs): Do you know the person directly under No. 1? A. Yes.

Q. Who is that?

A. Wong Kwok Keung, my third brother.

Q. Do you know the person directly under No. 2?

A. Yes. That is myself, Wong Kwok Foo. [29]

Q. Who is the person directly under No. 3?

A. That is Kwok Hoy, that is No. 2 brother.

The Court: No. 2 brother?

The Witness: Yes, my No. 2 brother.

Q. (By Mr. Hertogs): Is that the boy who lives in Los Angeles?

(Testimony of Wong Kwok Foo.)

A. Yes, right now he is living in Los Angeles, yes.

Q. Who is the person directly under No. 4?

A. This is my wife.

Q. Where is your wife at the present time?

A. Right now living here in Los Angeles.

Q. Who is the person down at No. 5 there?

A. That is my first child, my boy, my son.

Q. And No. 6, the person right here to the right of No. 6, who is that? A. Kwok Keung's wife.

The Court: That is what brother's wife?

The Witness: The No. 3 brother's wife.

Q. (By Mr. Hertogs): And the person directly under No. 7?

A. That is the younger of my brothers, that is Kwok Jin.

The Court: Which one is that?

The Witness: That would be the last one.

The Court: No. 6? [30]

The Witness: The youngest one, yes.

Q. (By Mr. Hertogs): Who is the person directly under 8 there?

A. That is my mother, Yee Fong Shee.

Q. There is a little boy where we have got a No. 9. A. Yes.

Q. Who is that?

A. That is Kwok Keung's son, the son of Kwok Keung, the No. 3 brother.

Q. Who is the person just to the left of No. 10 there, that woman over there?

A. That is Kwok Hoy's wife.

(Testimony of Wong Kwok Foo.)

Q. And where is Kwok Hoy's wife?

A. Living here in Los Angeles.

The Court: Which brother was that?

The Witness: That would be No. 2 brother, Kwok Hoy.

Q. (By Mr. Hertogs): There is a child with 11 there. A. Yes.

Q. Who is that?

A. That is Kwok Hoy's son, the No. 2 brother, son of Kwok Hoy.

Q. Where was that picture taken?

A. Where was it taken?

Q. Yes, where? [31]

A. That was in our village.

Q. In Chung Hing Village?

A. Yes, right, Chung Hing Village.

Q. When was it taken?

A. Oh, I would say approximately, just shortly before my departure from the Chung Hing Village to make my trip back here to the United States.

The Court: What year?

The Witness: I would say 1949, the spring.

Q. (By Mr. Hertogs): About the spring of 1949?

A. Yes. I think picture was taken about spring-time 1949.

The Court: That shows 1, 2 and 6th brothers, is that right?

Mr. Hertogs: No.

(Testimony of Wong Kwok Foo.)

Q. What brothers are in there? No. 1, who is that?

The Court: That is No. 1 brother, isn't it?

Q. (By Mr. Hertogs): Who is under the No. 1?

A. That is Kwok Keung, No. 3 brother.

The Court: Oh, that's No. 3?

The Witness: Yes.

Mr. Hertogs: And under No. 2?

The Witness: Myself, Kwok Foo.

Q. (By Mr. Hertogs): And No. 3?

A. That is Wong Kwok Hoy, No. 2 brother. [32]

Q. There is one more brother in here.

The Court: No. 7.

The Witness: That is Wong Kwok Jin, the youngest one. That is No. 6 brother.

Q. (By Mr. Hertogs): Is that all the brothers?

A. Here under No. 12 is Kwok Wei, which you didn't ask me.

The Court: Which one is that?

The Witness: That would be No. 5 brother, one of the plaintiffs.

Mr. Hertogs: We missed one, your Honor.

The Witness: You numbered it 12.

Q. (By Mr. Hertogs): Is he in the United States? A. Yes.

Q. Is he the boy that is here this morning in the court room? A. Yes.

Mr. Hertogs: I will ask that this be admitted in evidence, your Honor.

The Court: It may be admitted in evidence.

The Clerk: Exhibit 3-E in evidence.

(Testimony of Wong Kwok Foo.)

(The exhibit referred to was received in evidence and marked as Plaintiffs' Exhibit No. 3-E.)

Mr. Hertogs: I will ask that the certificate of identity issued by the American Consulate General at Hong Kong on January 21, 1952, to Wong Kwok Keung be marked as plaintiffs' exhibit next in order for identification.

The Court: It may be marked Exhibit 5.

The Clerk: 5 for identification.

(The document referred to was marked as Plaintiffs' Exhibit No. 5 for identification.)

Mr. Hertogs: I might state for the record, your Honor, there is attached and made a part of that certificate of identity form I-94(c), which is an official Immigration and Naturalization Service form showing arrival and the action taken in connection therewith. I will ask that the certificate of identity issued by the American Consulate General in Hong Kong, January 28, 1952, to Wong Kwok Wei, be marked as Plaintiffs' Exhibit No. 6 for identification.

The Court: It may be marked.

The Clerk: Exhibit 6 for identification.

(The document referred to was marked Plaintiffs' Exhibit No. 6 for identification.)

Mr. Hertogs: I will ask that the Hong Kong Crown Colony identity card issued to Wong Kwok Keung, which contains a picture on page 2 thereof, be marked as plaintiffs' exhibit next in order for identification.

The Court: Exhibit 7 for identification.

(Testimony of Wong Kwok Foo.)

The Clerk: Exhibit 7 for identification. [34]

(The document referred to was marked
Plaintiffs' Exhibit No. 7 for identification.)

Mr. Hertogs: I will ask that the Hong Kong Crown Colony identification card issued to Wong Kwok Wei, page 2 thereof, which contains a picture, be marked Plaintiffs' Exhibit 8 for identification.

The Court: It may be marked.

The Clerk: 8 for identification.

(The document referred to was marked
Plaintiffs' Exhibit No. 8 for identification.)

Q. (By Mr. Hertogs): I show you Plaintiffs' Exhibit No. 5 for identification and ask you if you recognize a photograph of the person at the bottom thereof. A. Yes.

Q. Who is that?

A. That is Wong Kwok Keung.

Q. I will show you Plaintiffs' Exhibit No. 6 for identification and ask you if you recognize the photograph of the person at the bottom thereof.

A. Yes. That is Wong Kwok Wei.

Q. I show you Plaintiffs' Exhibit No. 7 for identification and ask you if you recognize the picture of the person contained on page 2 thereof.

A. Yes, Kwok Keung.

Q. I show you Plaintiffs' Exhibit No. 8 for identification [35] and ask you if you recognize the picture contained on page 2 thereof.

A. Yes, that is Wong Kwok Wei.

The Court: Mr. Hertogs, I notice it is pretty

(Testimony of Wong Kwok Foo.)

near 11:00 o'clock. We will take our morning recess now. We will recess until 10 minutes after 11:00.

Mr. Dooley: Your Honor, the deposition hasn't been opened, and I would like to request that the deposition be unsealed.

The Court: The deposition may be opened and the parties may look at it.

Mr. Dooley: Also, I would like to request that it be taken, along with Mr. Hertogs, up to the Public Health Service, because I want to take a look at it through an instrument that they have up there.

Mr. Hertogs: We will need a shadow box to see it.

The Court: All right. Then you will go with him?

Mr. Hertogs: I have no objection. We won't have time now, but maybe at noon we can do it. We will make some arrangements between ourselves, your Honor.

The Court: All right. Court will now stand in recess until 10 minutes after 11:00.

(Recess.)

The Court: You may proceed.

Q. (By Mr. Hertogs): I will show you a picture contained [36] in Plaintiffs' Exhibit No. 2 for identification and ask you if you recognize that picture.

A. Yes. It is myself, Wong Kwok Foo.

Q. At the time you testified at the Immigration

(Testimony of Wong Kwok Foo.)

and Naturalization Service, Seattle, Washington, in 1939, did you claim that you had a brother known by the name of Wong Kwok Keung?

A. Yes, I did.

Mr. Dooley: I object, your Honor, on the ground that the question calls for a self-serving statement and is hearsay.

The Court: Overruled.

Q. (By Mr. Hertogs): At the same time did you claim that you had a brother known as Wong Kwok Wei? A. Yes.

Q. When you testified in 1939 and you stated you had a brother known as Wong Kwok Keung, were you referring to the person who was sitting in this court room this morning? A. Yes.

Mr. Dooley: Your Honor, may I have a continuing objection on what he testified to in 1939?

The Court: You may have a continuing objection, and the same ruling.

Q. (By Mr. Hertogs): When you testified in 1939 concerning your brother known as Wong Kwok Wei, were you referring to [37] the other boy that was sitting in this court room this morning?

A. Yes.

Q. At the time you were examined following your arrival in Seattle, Washington, in 1939, were you questioned by officers of the Immigration and Naturalization Service concerning your age, inasmuch as it appeared that you might be younger than claimed?

A. I believe they did have that impression, yes.

(Testimony of Wong Kwok Foo.)

Well, they just say I look so small for the age 16, Chinese age. I mean that was the statement I remember.

Mr. Dooley: I object to the witness saying what someone said in 1939, your Honor, as being hearsay.

The Court: It may go out.

Mr. Dooley: Immaterial and irrelevant.

The Court: It seems to me you are trying to anticipate Mr. Dooley's defense. Maybe he won't use that.

Mr. Hertogs: That was the only basis for objection to documentation in Hong Kong, so I have to presume it is the only thing in this case.

The Court: Mr. Dooley doesn't always see eye to eye with them.

Mr. Hertogs: I happened to see that at recess, your Honor. Then I have no further questions of this witness.

The Court: Mr. Dooley, do you want to defer your [38] cross examination until after the other witness has testified?

Mr. Dooley: Yes, although I understand Mr. Hertogs wanted this particular witness to be able to go, so I will commence his cross examination.

The Court: All right.

Mr. Hertogs: The others I have no objection to whatever Mr. Dooley wants to do in that regard, your Honor.

The Court: Mr. Dooley is trying to accommodate your witness.

(Testimony of Wong Kwok Foo.)

Mr. Hertogs: Yes, he is being very nice about it.

The Court: Mr. Dooley is very nice except he just won't give up.

Mr. Hertogs: He is in a rather bad predicament, your Honor, because he has his instructions.

Cross Examination

Q. (By Mr. Dooley): Mr. Wong, how old were you when you came to the United States in 1939?

A. In 1939 I was 16 Chinese calendar, because I had no American knowledge then.

The Court: May I ask you, is your American age the same as your Chinese age?

The Witness: No. I would be—if I was 16 at that particular month, I would be just about not quite 15 in [39] American then.

The Court: Not quite?

The Witness: Not quite, but it varies in different years, you know.

The Court: I know it does, so I was wondering about it.

The Witness: I was actually a little less than 15, I think, at the time.

The Court: But 16 was the Chinese calendar?

The Witness: 16 was the Chinese calculation.

Q. (By Mr. Dooley): What was the date of your birth?

A. I was born September 18, 1923. That is in the American calendar.

The Court: Can you give us the CR date?

The Witness: The Chinese Republic date?

(Testimony of Wong Kwok Foo.)

The Court: Yes.

The Witness: That would be in Chinese in CR 12, the 12th year of the Chinese Republic.

The Court: What month?

The Witness: The month would be 8, and also the 8th day.

The Court: Before you came to the United States, you lived in China?

The Witness: Yes.

The Court: You had gone to school in China?

The Witness: Yes.

The Court: Did you have any hesitancy in giving the CR date when you came to the United States?

The Witness: Well, you mean, well, of course, since I have been living here, I always go by the American calendar more than the CR date.

The Court: Now, when you give the CR date, you have to take the American date and subtract, is that it, and figure up the CR date?

The Witness: Yes, that's right. I am not too familiar with the CR date any more. I am familiar with the so many years instead of the CR date.

Q. (By Mr. Dooley): How old was your No. 1 brother when you came to the United States in 1939? A. You mean how old was he then?

Q. Yes.

A. Well, I only know his—he is 44 now in Chinese age, but I wouldn't exactly—no reason for me to remember how old he was when I came here. If

(Testimony of Wong Kwok Foo.)

you want me to, I just have to subtract that to figure it out, that's all.

Q. How much older was he than you when you came to the United States in 1939?

The Court: Let's put it this way. How much older is he than you at the present time? There hasn't been any change, has there? [41]

Mr. Dooley: No, your Honor.

The Witness: It would be — say 10 years, approximately—not by a 12-month calculation. I would say he is 10 years older than myself. That is just mathematical, not the days and the months. The equivalent might vary.

Q. (By Mr. Dooley): What was the date of his birth?

A. I really don't recall his date of birth.

Q. Do you recall the year in which he was born?

The Court: Mr. Dooley, here is the younger brother. You are asking him to recall the year he was born. He couldn't possibly recall that except through hearsay.

The Witness: Yes.

The Court: Somebody had to tell him. His father might be able to testify to when he was born or the mother, but a younger son can't except by reputation.

Mr. Dooley: I was thinking, your Honor, dates of birth come within the pedigree rule, and he could testify to any member of the family, if he can.

(Testimony of Wong Kwok Foo.)

The Court: Do you know when your first brother was born, the day and date?

The Witness: No, not the day and date. I can just say he was probably born in CR——

The Court: The only thing you are doing is figuring it out, you are figuring the date by arithmetic.

The Witness: Yes. [42]

The Court: You don't know when he was born, do you?

The Witness: No, I can't recall when he was born and I have no reason to know when he was born. You asked me the question.

Q. (By Mr. Dooley): Your mother never told you when he was born?

A. No particular reason for me to remember. She might have told me or my father might have told me, or on a certain occasion I might say, "How much is my older brother older than myself?" I didn't certainly remember it for any reason at all.

Q. Your No. 2 brother, do you remember his date of birth from reputation in your family?

A. Yes. That one I happen to remember. I sort of happen to, you know, by accidentally. He was born in 1914. I wouldn't know the CR date, either, because we just happen to have a conversation and the date was so coincide with, you know, the first war, and all that, and we just happened to have that in a conversation.

Q. How much older is he than you?

A. He would be approximately nine years, then,

(Testimony of Wong Kwok Foo.)

by figuring. He could be just about in that order.

Q. Your No. 3 brother, do you remember his birth date by reputation or in the family? [43]

A. I feel he only born a year before me. I think he was born around September, but I am not definite about it.

The Court: What year?

The Witness: 1922, just a year before myself. He is just about a year older than myself.

The Court: On direct examination you didn't tell us when you were born. When were you born?

The Witness: I was born September 18, 1923.

Q. (By Mr. Dooley): You are the No. 4 son, is that correct? A. Yes.

Q. No. 5 brother, do you remember his birth date?

A. I remember the year so plainly. He was born in 1935. Whether it was in April or May, I don't know. I really don't.

The Court: 1935?

The Witness: Yes.

The Court: Then he is considerably younger than you.

The Witness: Yes.

The Court: How many years younger?

The Witness: Say eight years, say. He was 35. It would be slightly more than that, say 12 years.

The Court: Mr. Dooley, let's get the No. 6 boy while we are here. [44]

Q. (By Mr. Dooley): The No. 6 boy, do you remember his birth date?

(Testimony of Wong Kwok Foo.)

A. Not the month and year. I remember the year he was born.

The Court: What year?

The Witness: He was born in 1937.

Q. (By Mr. Dooley): Were you in the Chung Hing Village at the time No. 5 boy was born?

A. Yes, I was there then, yes.

Q. Do you remember the birth?

A. Not the date. I remember a brother is added to our family.

Q. At first you testified he was eight years older than you, and then you changed it to 12. Do you remember how old you were at the time No. 5 boy was born?

A. I am quite sure I was older than eight. It would be about, just about 11 or 12 years. I mean that is just by memory, which you are asking me the time. When I first give you eight years old, it was mathematical error, I would say.

Q. You were just figuring it out mathematically when you gave eight? A. Yes.

Q. And you are figuring it out mathematically when you give 12?

A. No. Then I go back a little further when I had a [45] moment to think a bit, and I think I must really remember something when I was either 11 or 12, but before, when I was 10 years old, I don't think I remember too much prior to my 10th year of age. I know I was probably about 12 years old.

(Testimony of Wong Kwok Foo.)

Q. Do you remember what time of the day your No. 5 brother was born?

A. No, I don't recall the specific time, no.

Q. Who was living in the family home at the time your No. 5 brother was born?

A. Well, let's see. Kwok Keung was home and Kwok Foo, myself, and, let's see, our older brother is home. I don't know whether he is at home or not at the moment when the No. 5 brother was born. I mean he is still in China, the older brother. He was still in China then.

Q. You don't know where the older brother was? You don't know whether he was in the village or not at the time? A. That's right.

Q. You say you were there? A. Yes.

Q. Who else was there? I didn't get the names.

A. Kwok Keung was also home, the No. 3 brother, Kwok Keung, myself, and, naturally, my father is there, too.

Q. Was there anyone else living in the family home at that time?

A. No, not to my memory. [46]

Q. You didn't have any relatives other than your brothers there?

A. Present in the house at the certain event, you mean?

Q. No, who were living in the house.

A. No, nobody else, no, just my father, mother and both brothers and the older brother. No, no other relative.

(Testimony of Wong Kwok Foo.)

Q. When you came to the United States in 1939, how old was Kwok Wei at that time?

A. I would say approximately just a small kid, five years old.

Q. Five years of age? A. Yes.

Q. When you went back to China in 1949, how old was Kwok Wei?

A. I went back in 1947. I returned in 1949. I went back to China in 1947.

Q. When you went back in 1947, how old was Kwok Wei? A. He was 13 or 14.

Q. Between 1939 and 1947, did Kwok Wei correspond with you or write to you?

A. Let me think. No, he didn't, no.

Q. Between 1939—withdraw that.

When you came into the United States in 1939, how old was Kwok Keung? [47]

A. Then he was 17.

Q. When you returned, how old was he?

A. I think he was 26. When I returned, he was 26, I believe, yes.

Q. Between 1939 and 1947, did Kwok Keung write to you? A. Yes, he did.

Q. How often did he write to you?

A. Of course, that was many years during the war, between 1939 to 1947, and I certainly did receive some letters from him, say, before Pearl Harbor, and after 1940, then we did our correspondence occasionally, but after the war was over, I corresponded with him more often. I would say 1946 I wrote to him quite a few times. Of course, during

(Testimony of Wong Kwok Foo.)

1942 and 1943 and those times, the mail service wasn't so regular, so we didn't correspond very often. I can't even recall whether I done it once or twice, maybe.

Q. He wrote to you after the war and before 1947? A. Yes.

Q. Do you have any of those letters that you received from Kwok Keung after the war and before 1947?

A. No, I don't think so, unless I have to go home and look for it. I do keep some old mail, too, but not for specific reasons, so I look for it for you—I don't know whether I have any or not. I can't say I have.

Q. Where did you attend school, Kwok Foo?

A. Did you say when or where?

Q. Where and when did you attend school?

A. I attended school in China the first nine years, Chinese teaching in China, and the next village from Chung Hing Village, the school is located.

Q. What was the name of the village?

A. It is known as Bak Chung, B-a-k C-h-u-n-g, and that is equivalent to white window. There is no formal translation for that particular name because it is only done in Chinese character, the name of the school which represent the village, but I would say in my own translation now it is B-a-c-k and C-h-o-n-g.

Q. That was also the Bak Chung School?

A. Yes.

(Testimony of Wong Kwok Foo.)

Q. It was in Bak Chung Village?

A. Yes, it is in our regular—yes, in our regular conversation, yes. I don't know whether there is any other name. I don't know. Somehow in China some villages are known as an X name or the familiar landmark, so evidently the name that remind me is Bak Chung, because the windows in that particular village are white, so if there is any formal name or official name, I don't know.

Q. How far was Bak Chung Village from Chung Hing Village?

A. Within walking distance. Let's see. We generally [49] walked through a narrow, you know, a narrow walk in between the rice field, so it would be—I would say it would take about 10 minutes, maybe, when I travel to school from my house, maybe 10 minutes. Of course, during the winter time, you can take the shortcut without destroying the rice field. Of course, then you walk diagonally. It could be shorter cut. I would say about 10 minutes walking distance.

Q. Did Wong Kwok Keung go to school with you?

A. Yes, for a number of years we attended school together.

Q. And you went to Bak Chung school for nine years? A. Yes.

Q. Who started school first, you or Wong Keung?

A. Keung started a year earlier than myself.

(Testimony of Wong Kwok Foo.)

Q. Is that the only school you attended in China, is Bak Chung school?

A. Yes, that is the only one I have attended, yes.

Q. When you left China to come to the United States in 1939, was Kwok Keung still attending Bak Chung school?

A. Our school term always ends toward the end of the last month in Chinese calendar, you know, or Chinese new year, so he ended it and I ended it, but after the new year I left the village, so whether Kwok Keung returned to Bak Chung school or not, I don't recall, because there was just a short time.

I heard that he went from the village to Macao, you know, after my departure from Hong Kong for the United States, so I don't recall, but I just point out we both end the term at the very end of 1939, and then I left the village in 1939.

Q. Have you ever been to Canton City, Mr. Wong?

A. Yes. I make a trip there, of course, on my way—do you mean all together, or you just want me the very first trip?

The Court: Any time.

The Witness: Any time all together?

The Court: Yes.

The Witness: Yes, I would say—let's see. First, I went there once with my—with Kwok Keung and both of my parents, which is considered a vacation, and then when I left the village for Hong Kong, that was the time we didn't have to go to Canton.

(Testimony of Wong Kwok Foo.)

I would say in different occasions I have been through or to Canton three times, I put it that way. But, of course, only once that Kwok Keung was with me.

Of course, on my trip back to China, I also met Kwok Keung in Canton City, too, and so naturally you would say my presence at Canton City would be—yes, Kwok Keung was also present.

Q. (By Mr. Dooley): Have you ever been to Canton City with Kwok Wei?

A. No, I never did. [51]

Q. Have you ever been to Canton City when Kwok Wei was in Canton City?

A. No, I don't recall Kwok Wei ever been to Canton City or not. If he did, I don't know about it.

Q. I show you Plaintiffs' Exhibit 3-E. You have testified, I believe, that that photograph representing Plaintiffs' Exhibit 3-E was taken during the last trip to China, is that correct?

A. Yes. I say shortly before my departure from China.

Q. You departed from China in 1949?

A. Yes.

Q. Do you recall testifying when you first looked at this picture that you didn't know where Kwok Wei was at the time that picture was taken?

A. No. I try to point it out to Mr. Hertogs, that he didn't ask me about Kwok Wei. I wasn't hesitating about Kwok Wei's picture in here. You remember that we missed Kwok Wei on the record and then Mr. Hertogs go again, and I change it

(Testimony of Wong Kwok Foo.)

then that way, Kwok Wei is here. You didn't ask me. That was the way I spoke to Mr. Hertogs. I didn't say Kwok Wei wasn't here. I pointed out he didn't ask me about Kwok Wei.

Q. How old was Kwok Wei at the time that Exhibit 3-E was taken?

A. He must be about—it would be now in 1949. You might say he is 14, wouldn't it? [52]

The Court: Did you say that was 3-E?

Mr. Dooley: Yes, your Honor.

Mr. Hertogs: That is 3-C, I believe.

The Court: And I have 3-D. What does it say on the back of it?

Mr. Hertogs: 3-E, that is correct.

Q. (By Mr. Dooley): No. 7, I believe you testified that was Wong Jin, did you not? A. Yes.

Q. Now, Wong Kwok Jin was how old at the time 3-E was taken?

A. Either 11 or 12 in Chinese age.

Q. Wong Kwok Jin was younger than Wong Kwok Wei? A. Yes, by age, yes.

Q. Was he taller than Wong Kwok Wei when this picture was taken?

A. Yes. He was bigger than Kwok Wei but, of course, now I don't know whether he is bigger or not by appearance. We have to match that again, but I am sure at the time he was bigger, and for some reason, I don't know, during the wartime, undernourishment, or also he had malaria, and all those sicknesses, because his development is later and he looked so small. I feel the same way about

(Testimony of Wong Kwok Foo.)

my brother. Kwok Jin is still, compared to the American build, still small for 11 or 12, and Kwok Wei, by looking at him, is just a small kid. [53]

Q. But you remember at the time the photograph was taken Kwok Jin was bigger than Kwok Wei?
A. Yes, positively, I do.

Q. How much taller was Kwok Jin than Kwok Wei at the time the picture was taken?

A. Oh, at least a very outstanding quarter of a head or half a head.

Q. When you went back to China in 1947, you had no way of recognizing Kwok Wei, did you, from the little boy that you had seen when you left there in 1939?

A. You mean do I recognize Kwok Wei at the first? You mean our first reunion again, you mean?

Q. Yes.

A. Oh, yes, I recognize him, yes. Well, although he might have changed a little bit, but still in my memory I recognize him.

Q. In what way did you recognize him?

A. Now, you mean—how do you mean? Do I have to introduce like saying, “this is your No. 5 brother”? Or you mean is that the—is that the way you mean it, or do you mean do I carry that in my memory all the time?

Q. Was there any particular feature by which you recognized Kwok Wei?

A. Just a general outline of his face. I don't think he changed too much as far as the face is concerned, but he is [54] bigger than when he was, you

(Testimony of Wong Kwok Foo.)

know, taller. When I left there, he is four or five years of age, and he is just a little tiny tot, and he grow into boyhood, and I recognized him, naturally, anyway.

Q. I show you Plaintiffs' Exhibit 3-C. You stated that must have been taken in 1934.

A. Yes, correct, yes.

Q. How old were you at that time?

A. 12.

Q. How old was Kwok Keung at that time?

A. If he was 12, he would be 13. Those are just back in my memory, the Chinese age. I didn't calculate on 12 month annual age.

Q. For what reason were you in Canton City at the time Exhibit 3-C was taken?

A. This one was really a vacation. It was during summer vacation and our father just returned from the United States, so naturally we like to have our vacation together. I mean that is the first vacation we really enjoyed it. No other specific reason for that trip.

Q. Was there a market near Canton City, I mean near Chung Hing Village?

A. No. Speaking in China, it is considered a long distance from our home, but in the way of American measurement, that would be, oh, I would say about 100 miles away from [55] our home.

The Court: A market?

The Witness: No. We were referring to Canton City. Aren't we, Mr. Dooley?

(Testimony of Wong Kwok Foo.)

The Court: He changed his question. He asked you if there was a market near your village.

The Witness: A marketplace, oh, yes. That is Chew Ging marketplace near our home. I would say it is two kilometers, oh, not two miles, but it could be interpreted that way, too. I don't know.

Q. (By Mr. Dooley): The name was Chung Wing?

A. No, Chew Ging—I think that is spelled C-h-e-w G-i-n-g. In other words, that is the public marketplace and consists of 100 some stores in different type of business where we do our buying of foods and any other household necessities.

Q. You say that was about two kilometers?

A. Yes. I think they use kilometer measures in China, isn't it, Mrs. Chan?

The Interpreter: Yes.

Q. (By Mr. Dooley): Just a moment. Don't you know what measurement they used in your village?

A. Oh, yes. In Chinese they call it Chinese mileage.

The Interpreter: It is lis.

The Court: Let's not have any conversation between [56] the interpreter and the witness.

The Witness: I was asking her help to get the equivalent. You want my own interpretation. It is miles. I don't think it is two miles, but it is two miles in Chinese mileage, I put it that way, it is Chinese mileage.

(Testimony of Wong Kwok Foo.)

Q. (By Mr. Dooley): While you were in China, what did you call Chinese miles?

A. In Chinese sound?

Q. Yes.

A. (The witness spoke in Chinese.)

Two miles. It is pertaining to Chinese measuring unit. It is miles in Chinese mileage.

Q. Will you pronounce that again, Mr. Wong?

A. (Witness again speaking in Chinese.) I think you would spell that L-e-u-n-g W-a-l-a. I don't know how to spell it.

Q. (Mr. Dooley speaking Chinese.)

A. Yes, that meaning in two miles in Chinese standard.

Q. Have you ever heard a Chinese mile referred to as a li? A. Yes, that's right.

Q. Did you refer to a Chinese mile as a li while you were in the village? A. Yes.

Q. Is that what you were pronouncing a few moments ago [57] when you were giving the Chinese for Chinese miles, or was that a different word?

A. Oh, the same word, but I use leung wala—I don't get the exact question.

Q. You just said a few moments ago when you were in China you called a mile something like leung wala. A. Leung is two.

Q. You also said a li was the word for Chinese mile.

A. The sound is never—you see, you only use the translation. You are not using the equivalent in

(Testimony of Wong Kwok Foo.)

—well, you mean I pronounce it as lee, l-e-e sound, is that what you mean?

Q. No. When I was asking you whether li was the same word you had pronounced previously——

A. Yes, it is the same word. A mile is the equivalent in Chinese sound, and it is l-a-y.

Q. How far is your village Chung Hing Village from Canton City?

A. There is no direct highway from our home to Canton. From my last trip to China, I happen to know the air mileage. That was 20 minutes by air. That is air mileage. But when we travel from our home to Canton, we travel by water carrier, which is equivalent to your river steamboat, or one of those ancient river transportation implements.

Q. Do you know the distance from your village to Canton [58] Village?

A. By the exact mileage, no, I don't.

Q. Do you know the approximate mileage?

A. I would say, oh, 80 to 100 miles in American mileage or equivalent. From about 80 to 100, I say it that way.

Q. The last time you were in your village, how many houses were there in your village?

A. You want the exact number or the approximate size of the village?

Q. Do you know the exact number?

A. It is anywhere around 30 to 32, I would say, anywhere from 30 to 32. It wouldn't be too great many number less or too great many number more.

(Testimony of Wong Kwok Foo.)

I would say 30 to 32. I am considering all—I mean 32 houses or buildings, I say it that way.

Q. Were the houses divided into rows the last time you were there?

A. Yes, that is the way it was. Yes, that is the way the village is set up in China.

Q. How many rows?

A. I believe it is nine rows. I think it is nine.

The Court: How old were you when you left the village?

The Witness: You mean the last time I left there in 1949? [59]

The Court: How old were you when you left the village the first time?

The Witness: The first time was 16 Chinese age, the first time when I left the village.

The Court: You remember the village as it was when you left it, don't you?

The Witness: No, I didn't put it in my mind too much about it. I stayed here from 1939 to 1947, during all those years, and I did work a great deal of the time.

The Court: You lived in the village for 16 years.

The Witness: You say 14 full years, you might say, because a few months before I go away.

The Court: You know how many houses were in the village, don't you?

The Witness: I gave him the number as 30 to 32.

The Court: You know how many rows there were in the village.

The Witness: Yes, I gave him nine rows.

(Testimony of Wong Kwok Foo.)

The Court: What row did you live in?

The Witness: If you count in—well, actually, the first from the head of the village, there is only one house in the first row, and there is a couple of public places, and a second, third, fourth—I would say the fourth row at the head of the village, counting from the head of the village. [60]

The Court: Fourth row from the head?

The Witness: Yes, because the first row only one house. I don't know whether you would call that a row or don't count that. If you count it a full row, you would say my house would be third, and other would be fourth row.

The Court: Where was your house in the fourth row? How many houses were there in the fourth row?

The Witness: I believe only five, yes. Our house is the last one in the row, so there was five. Yes, five.

The Court: Your house was the last one?

The Witness: Yes, that would be the fifth one, the last one, the last house.

Q. (By Mr. Dooley): You stated you had spent 14 years in the village instead of 16. How old were you when you went to Hong Kong to come to the United States for the first time?

A. Then it would be—well, let's see. I just turned 16 in 1939. Oh, well, then I would be still about approximately in the full year calculation still not less than 15, still 16 in Chinese age, still 16 in Chinese age there at the time when I depart.

(Testimony of Wong Kwok Foo.)

Q. When you left the village?

A. Yes, the first time, yes, I mean for my trip here.

Q. The first time, how long did you stay in Hong Kong?

A. Let's see. I got there, oh, let's see, within four months time. I don't recall the exact days and months. About [61] less than four months, about four months time.

Q. (By Mr. Dooley): Within four months time you came to the United States?

A. Right, yes.

Q. When you went back in 1947, did you spend all of your time in the village?

A. Yes, most of the time, yes. As far as my residency is concerned, yes, you would say all the time, but, in other words, I am not in the village every day or every hour of the day, I am not there.

Q. When did you marry?

A. You want the CR date or American calendar? It happened to be the last—of course, that is just a recent event so I could give you both. It happened to be the last month and the 15th day in the year of—CR date would be 37. It would be CR date 37-12-15. The equivalent is 1948, January 15, somewhere around that neighborhood.

Q. Did you marry in the Chung Hing Village?

A. Yes. The marriage took place in Chung Hing Village, yes.

Q. Did any of your brothers attend your wedding?

(Testimony of Wong Kwok Foo.)

A. Oh, yes. Yes, with the exception of the older brother and Kwok Keung was schooling then, so, in other words, Kwok Hoy, Kwok Wei, Kwok Jin, yes.

Q. Kwok Hoy, Kwok Wei and Kwok Jin attended your wedding? [62]

A. Yes.

Q. Were you married in your home in the village?

A. Yes.

Q. Did you have any ancestral worship as a part of the ceremony?

A. No. In my case we simplify that. No, I didn't follow exactly.

Q. Just what sort of ceremony did you have?

A. You want me to describe what sort of—well, we did after the—let's see, our marriage day, we give a party of, oh, just say within 10 tables, you know, 10 persons at a table, you would say 100 guests, maybe. Those just come from the village. Is that what you wanted, Mr. Dooley, or do you want the Chinese tradition, you bow to your parents and all that? I cut all that out myself. I didn't do that. I didn't wear Chinese gown. I just wear my sport jacket and slacks instead of Chinese gown.

Q. Did your wife wear Chinese clothes?

A. Yes, she wear Chinese clothes, yes, she did, but I didn't.

Q. How was your wife brought to the wedding?

A. By—what you call it? A sedan? It is like with a bamboo stick and carried by the human shoulders. Is that what you call a sudan or sedan? What do you call that? A [63] human carriage.

(Testimony of Wong Kwok Foo.)

Q. Are you referring to a sedan chair?

A. Yes, I refer to sedan chair, yes.

Q. What time of the day did the wedding take place?

A. In afternoon hours.

Q. When you came to the United States in 1939, do you know the reason that Wong Kwok Keung didn't come to the United States at that time?

A. Yes, I do.

Q. What was the reason?

A. Well, since my second brother is here in the United States already, and then the older brother is here, and then I am about to come over here, naturally, one of us had education in our home, see, so I think either my father or my mother's idea, thinking it is good to have one of the boys have a full education in our homeland. That was the intention, anyway.

Q. Did your father have any brothers?

The Court: Mr. Dooley, it's 12:00 o'clock and after. I don't suppose you are going to be able to finish this cross examination before lunch time, are you?

Mr. Dooley: I don't believe so, your Honor.

The Court: You are starting on a new tangent.

Mr. Dooley: Yes. I wanted to develop a few more facts. There is another matter, your Honor. The deposition [64] is sealed in such a way that I can't get the radiographs out, and Mr. Hertogs said it would be agreeable to break the seal so the radiographs can be taken out and examined.

(Testimony of Wong Kwok Foo.)

The Court: That is perfectly all right with me. You agree to it, do you?

Mr. Hertogs: I agree to it. Of course, I am not agreeing to their admissibility, but I am not objecting to this.

The Court: It may be opened.

We will now stand in recess until 2:00 o'clock this afternoon.

(A recess was taken to 2:00 o'clock, p.m.)

Tuesday, January 22, 1957, 2:00 p.m.

The Court: You may proceed.

WONG KWOK FOO

the witness on the stand at the time of the recess, having been previously duly sworn, was examined and testified further as follows:

Cross Examination—(Continued)

Q. (By Mr. Dooley): Mr. Wong, I believe you testified that Exhibit 3-C was taken in Canton, is that true? A. Yes.

Q. And you testified this was taken about 1934, I believe you testified? A. Yes.

Q. When your father was back in China?

A. Yes.

Q. And on Exhibit 3-E, you testified that this on the end is a picture of Wong Kwok Wei.

A. Yes.

Q. Do you recall testifying before the Immigra-

(Testimony of Wong Kwok Foo.)

tion and Naturalization Service when you came to the United States in 1939?

A. Somewhat, yes. [66]

Q. I am going to call your attention to a question which was asked of you. First I am going to show you Plaintiffs' Exhibit 2 for identification, and call your attention to page 7 of this form and ask you if this is your signature on page 7.

A. The Chinese characters?

Q. Yes.

A. Yes, those are my own, yes.

Q. I am going to call your attention to a question which was asked you as part of this hearing and ask you whether the question was asked and whether this was the answer you gave:

“Q. Did your father have any group photograph taken of any members of his family while he was in China? “A. No.”

Was that question asked you and was that the answer you gave?

A. Of course, the question was answered through an interpreter and I didn't have any chance like I have today to ask further, and I don't know whether I stated it that way or maybe it come from myself or the interpreter. I don't know. I don't blame it on the interpreter, or whether that was myself. I just overlooked the question or misunderstand it myself, but I mean, of course, today I recall the picture when you point it out. [67]

Does the record show the picture was shown to me at the time?

(Testimony of Wong Kwok Foo.)

Q. No, the record doesn't show that, but this is the question:

“Did your father have any group photograph taken of any members of his family while he was in China?”

A. In my own thinking, maybe at the time when they say group picture, in our Chinese language that would include all the members of the family, which doesn't include my older brother and second brother, so maybe that is why I thought that was the proper answer to say, although just two of the four boys is shown with the parents. Maybe that was my answer to the number at the time.

Q. I call your attention to another question which was asked at this hearing and ask you whether this question was asked you and whether this was the answer you gave.

“Q. Were there ever any photographs taken of your two younger brothers, Kwok Wei or Kwok Keung?”

“A. No.”

Was that question asked you and was that the answer you gave?

A. Yes, that is true. I mean at that time Kwok Wei wasn't there, so how—I mean, in other words, [68] when we take this picture, Kwok Wei wasn't there. He wasn't born then, in 1934.

The Court: Mr. Dooley, what is the date of that examination?

Mr. Dooley: 1939.

The Court: 1939?

Mr. Dooley: Yes, your Honor.

(Testimony of Wong Kwok Foo.)

The Court: And what is the question? What was the question?

Mr. Dooley: Let's see. I believe I had the dates wrong myself, your Honor, in that question on the second picture.

The Court: What was the question?

Mr. Dooley: The question was:

"Were there ever any photographs taken of your two younger brothers, Kwok Wei or Kwok Jin?"

"A. No."

I don't have a discrepancy on the second question, because I have the dates confused there myself.

The Court: All right.

Q. (By Mr. Dooley): When was Exhibit 3-E taken? A. Just in the spring of 1949.

Q. Now, Mr. Wong, would you describe the house in which you lived while you were in the village?

A. Yes. It is—well, I mean the majority of [69] Chinese houses are built rectangular.

The Court: The house you lived in, not the majority.

The Witness: I see. You mean the material or the interior, how they were partitioned, or what do you mean?

Q. (By Mr. Dooley): I will ask another question. How many rooms did the house have?

A. Actually, originally it is only two bedrooms, regular two-bedroom house.

Q. It had two bedrooms? A. Yes.

(Testimony of Wong Kwok Foo.)

Q. Did it have any other rooms besides?

A. Subsequently we did add a wooden partition in the center parlor to accommodate more—you know, the increased members in the family, and then I mean generally you would say four instead of the original two, but there was originally only two, and up to the last time I was in China, naturally, we have four partitions with wooden material in the center parlor for two smaller rooms. You see, our center parlor is larger than the—I mean here in American-built homes.

Q. You mean two bedrooms and a center parlor. Was that a part of the bedroom or a separate room?

A. No, it wouldn't be—well, you see, just partitioned. If there is a center parlor here, you can always partition a smaller room here and a smaller room here. [70]

The Court: Give him a piece of paper, Mr. Dooley, and let him draw the contour of the house, that is, as you remember it when you grew up in China, that is before you came here, up to when you were 16 years of age.

The Witness: Prior to my arriving in the States?

The Court: Yes.

The Witness: Oh, yes. The house generally is in this—I don't know whether I get the exact way it is here. You see, there was only two, that is the way the houses are built in China, and that is the bedroom, that is the bedroom, and that is the cen-

(Testimony of Wong Kwok Foo.)

ter room, you call it a parlor, and the kitchens are here. That is the two kitchens.

The Court: Will you mark those bedrooms and kitchens?

The Witness: Yes, okay. I will just mark down here bedroom and this also bedroom, and then I just put down kitchen.

The Court: And mark the center parlor.

The Witness: I will just put parlor there.

The Court: That is the house that you remember you grew up in, is that right?

The Witness: Yes, that is the house before my age 16.

The Court: All right.

Q. (By Mr. Dooley): Where was the entrance door? [71]

A. Oh, yes. It has an entrance, and it has another entrance, because here is an entrance generally to the parlor. I put it this way, see? Okay.

Q. That was in 1939 when you left China?

A. Yes, that's right. And then I can describe the later part to you in 1949. The last time when I remember my home, there was a partition.

Q. That is 1939 there? A. Yes.

Mr. Dooley: Let's mark that for identification.

The Court: It may be marked for identification.

The Witness: Those are just later on after our family, you know, my marriage and all, prepared for my marriage.

The Court: That is Exhibit A, and I suppose

(Testimony of Wong Kwok Foo.)

there is no reason it can't be admitted in evidence, Mr. Dooley?

Mr. Dooley: The defendant offers in evidence Exhibit A.

The Court: It may be received in evidence.

The Clerk: Exhibit A.

(The exhibit referred to was received in evidence and marked as Defendant's Exhibit A.)

Q. (By Mr. Dooley): Now, in 1947, when you went back to China, will you describe or will you draw a diagram of the house at that time?

A. Okay. This is 1947. As I say, the house——

The Court: Let's have that marked, Mr. Dooley. We can mark that as Exhibit B in evidence.

The Clerk: Exhibit B.

(The exhibit referred to was received in evidence and marked as Defendant's Exhibit B.)

Q. (By Mr. Dooley): Mr. Wong, what was the floor of your house made of?

A. The floor? Well, the center parlor is cement floor, and the bedroom, or the kitchens are just plain dirt floor. Whether there is any equivalent here or not, I mean it is packed dirt floor.

Q. The bedroom is dirt? A. Yes.

Q. Is that in 1939? A. Yes.

Q. And the center parlor was cement?

A. Yes.

Q. And the kitchens were dirt? A. Yes.

Q. Were the floors the same in 1947 when you went back as they were in 1939?

A. Haven't been changed, the same.

(Testimony of Wong Kwok Foo.)

Q. Did the bedrooms have any windows?

A. Yes.

Q. How many windows? [73]

A. Let's see. One on the side. Of course, what they call a skylight, and there is a little one on the top. You don't call that a window, so it is actually only one window.

Q. One window in the bedroom. That was in 1939? A. Yes.

Q. There was a skylight in the bedroom?

A. Yes. That would be on the roof. It was directly on the roof.

Q. How many skylights in the bedroom in 1939?

The Court: In each bedroom?

Q. (By Mr. Dooley): In each bedroom.

A. I believe there is one just right above the doorway there. I think there must be another one in the back part, so I think there is two skylights.

Q. Do you remember two, or are you guessing?

A. The second one, I am not too—you see, because our bedroom in China often so much longer, and when you don't have electricity system over there, you know, the room is, even with one window is not real bright, you know, not like here. When you walk into a room, your windows and things are so noticeable, so the second one I wouldn't say positive. When you ask me I say possibly two, but I know there was one right above your doorway when you open the door, and there is one on the top there, and I think this one should be like I am pointing now. If I enter my bedroom,

(Testimony of Wong Kwok Foo.)

[74] that would be one above your door, and then would be one somewhere about where you are standing, or even further back.

That is how big the bedrooms in old houses are, you know, much longer than the bedrooms are here.

Q. What was the color of the house?

The Court: You mean the outside color?

Mr. Dooley: Yes, your Honor, the outside color.

The Witness: The construction is brick, and what color would brick be, because it isn't red like the brick we see over here.

Q. (By Mr. Dooley): Then what color was it?

A. I mean I think it is called—there is no—I don't think—I don't know whether it is gray or not. I mean all the Chinese bricks are standard as far as in China is concerned, so could that be the answer you want?

Q. You saw the color, so what is the color? You have seen the color since you have been to the United States, haven't you?

A. Well, yes, I would say similar to my—the bricks are similar to my coat here, so I am—not the exact shade, but I mean in that order, anyway. It would be in the order of gray, I think, you know, not either white or yellow or other colors. Do you get the idea of what this is?

Mr. Dooley: Let the record show the witness is wearing a gray suit. [75]

The Court: It is a kind of a greenish-gray, isn't it?

The Witness: But I wouldn't say exactly. Of

(Testimony of Wong Kwok Foo.)

course, brick is standard over there. The house bricks are pretty generally, even on the outside they are not the same as on the inside. Maybe on the outside they bake more and that color is more or less well baked, and the inside is a different color, but that is a general rule.

I know about the brick, but it isn't necessarily my house built out of the material. I didn't tear out my house wall to see what color it is, but that is my general description of the material.

Q. (By Mr. Dooley): You mean from the outside as you looked at it?

A. Yes, it would be this shade. It isn't white or colored, because those are the outstanding colors here, and it isn't positively white or yellow or green. That is not the color. So it is along this shade as my sport jacket.

Q. It was gray?

A. Yes, I classify it as a gray tentatively, yes.

Q. Did you have any balconies in your house?

A. Yes, there is a balcony, yes.

Q. Where were the balconies located?

A. The balcony would be located in each bedroom. That generally runs like the shape of a 7 in your bedroom, and I [76] think used for storage purpose, because over there, just one story house, it is almost as high as your buildings here, not quite, I wouldn't say approximately not quite, so there is always room for a balcony like the shape of an L. In conversation, the whole bedroom would be L-shaped.

(Testimony of Wong Kwok Foo.)

Q. They had one in your house? A. Yes.

The Court: In both bedrooms?

The Witness: Yes.

Q. (By Mr. Dooley): Did you have any shrines in your house?

The Court: Any what?

Mr. Dooley: Shrines.

The Witness: You mean for making a prayer or occasional ceremonial purpose, is that what you mean?

Q. (By Mr. Dooley): Yes.

A. Yes, there is one. I think so, yes. You call that a shrine, or is it an altar? Wouldn't it be something like that?

Q. What did you have of that nature in your house?

A. We have right smack in the center, there is a little balcony—you see, another little balcony there with, yes, for praying purposes, or any ceremonial purpose.

Q. And it was a balcony?

A. Yes. Also, there is a little balcony there. [77]

The Court: What room was that?

The Witness: In the parlor, the back part of the parlor.

Q. (By Mr. Dooley): What villages were there close around Chung Hing Village?

A. By which direction are you asking me, Mr. Dooley? Going down like to Chew Ging market-place, or going up the other direction?

(Testimony of Wong Kwok Foo.)

Q. First in the direction of Chew Ging market-place.

A. Yes. You mean to point out the nearest village that might be, you know, on the way where you travel to Chew Ging?

Q. Yes, the nearest village.

A. There is one called Gow Leung, I think they spell it G-o-w L-e-u-n-g, village, a tall—equivalent to either a slope or mountain, in that meaning.

Q. In which direction do you go from your village to get to Chew Ging market?

A. Let's see. Our village is facing west, so naturally the back would be east, wouldn't it? So, in other words, I would say if I go to Chew Ging from Chung Hing Village, it would be eastward. Gow Leung would be on my left-hand side if I travel eastward.

The Court: Let me ask you a question. The head of the village, is that in any particular [78] direction in China? Is that in any particular direction in China? Is it toward the east or north or west? Does the head of the village point to any particular direction?

The Witness: No. Consider as the head of the village, you see, each village should have what they call a common place, in other words, it is not your house, it is not my house, but it belong to everybody, so I think you started from wherever the common place is built. You call that the head of the village.

(Testimony of Wong Kwok Foo.)

The Court: Was that the head of the village in your village?

The Witness: Yes.

The Court: It was a common house?

The Witness: Yes.

The Court: Was that to the west, east, north, or south, or do you know?

The Witness: The village is facing west, and then back is east, so that would be on the south, wouldn't it? The south side—let's see, how could I get it? The direction opposite from west is—you see, because our direction is not like your S and N and E and W, because we go from what they call a circle—you say it clockwise? Let's see. I have to get the exact facing. The facing of my village, that would be—just to make it easy, to say facing west. Of course, the back wouldn't be east, would it? Let's see. [79]

The Court: You don't use north and south in China, do you, or east and west?

The Witness: No, not too often, because we not like a street intersecting, so it isn't necessary to point out, like I say, S for south and N for north.

The Court: Where was Canton from your village? Was that north, south, or east or west, or do you know?

The Witness: Canton would be behind our village. In other words, if my village is facing west—

The Court: Then it would be east?

The Witness: Yes, so I said it right, sir, on

(Testimony of Wong Kwok Foo.)

the east, because the village isn't built exactly, you know, not by compass pointing position, so it isn't exactly west, see, so that is why, when you ask me the head of the village, is it south, I say southwest or southeast.

The Court: What direction would you have to go to Hong Kong?

The Witness: That would be the same. That is still going directly opposite from our village the way it is facing. It would be the same direction as going to Hong Kong, only I say strict to the right would be Hong Kong, strict to the left would be Canton.

Q. (By Mr. Dooley): Straight to the right would be Hong Kong?

A. Yes, if we are going to—like I leave [80] Chung Hing Village going to Hong Kong, I would say going down there, that would be—I mean that direction now. I am not pointing out the distance, because the distance is, like I say, there is no highway system or railroad system directly to Hong Kong, so I say if you travel to Hong Kong, it would be part way to your right and to Canton it would be part way to your left for the two city locations?

Q. Did your father have any brothers?

A. Yes, he has.

Q. How many brothers did your father have?

A. Let me see. Well, actually, I only saw one of my uncles. The other two, I didn't see them. So

(Testimony of Wong Kwok Foo.)

let's say my brother has—my father has three other brothers, so it would be four with my father.

Q. Do you know their names?

A. I only, sir, know the No. 2 brother. He happened to live in Los Angeles for some time before he pass away. That is the only one I ever met. That is Wong Soo, that is his name.

Q. Wong Soo?

A. Yes. I think he used the name Soo, S-o-o.

The Court: He is the only one you ever met?

The Witness: He is the only one I ever met, yes, of my father's brothers. The other two, I never met them.

Q. (By Mr. Dooley): You said Gow Leung Village is to the east of your village? [81]

The Court: Mr. Dooley, the trouble is you are getting into east and west and north and south. You and I understand it, but I don't know whether they understand directions like that in China. I will ask the interpreter. Do they use east and west and north and south in China?

The Interpreter: Not in the village too much. In the cities, they have more like the United States way.

The Court: But out in the country, do they say, "I am going north," or "I am going south"?

The Interpreter. No. Definitely, as the witness has stated, the demarcation lines are very vague, and also the sectional divisions and the compass. In the village, they just have names.

(Testimony of Wong Kwok Foo.)

The Court: Then the villagers wouldn't know what you mean by north and south?

The Interpreter: Not unless he is awfully clever. If he has traveled a lot, but not the ordinary villagers I have encountered.

The Court: All right, Mr. Dooley.

Q. (By Mr. Dooley): Gow Leung Village is in the direction of Chew Ging market? A. Yes.

Q. Were there any villages, say within 10 lis in the opposite direction from Chew Ging market?

A. Gee, you mean in 10 lis? 10 miles? That would be quite a distance.

The Court: Let me ask a question. How much is a li?

The Witness: A li is one Chinese mile. It is one-third of your mile, I believe, equivalent to the English unit. One li is one mile. If you are asking me within 10 lis, that would be over three miles. Oh, yes, there is quite a number of villages. If your eyes see three miles, there is a number of villages within your eye vision, yes.

Q. (By Mr. Dooley): What is the closest one going in the opposite direction from Chew Ging market?

A. The opposite, in other words, if you go the direction our village is facing now, is that what you mean?

Q. Your village faces west?

A. Yes. Is that what you mean now? There is one, Lung Wan.

Q. How far is that from Chung Hing Village?

(Testimony of Wong Kwok Foo.)

A. From Chung Hing Village, I would say about five city blocks, I mean equivalent, whatever that is, to the city block here, so about five city blocks.

Q. How far is Gow Leung Village?

A. That would be exactly midway from our village to Chew Ging. That is one Chinese mile.

Mr. Dooley: No further questions. [83]

The Court: May this witness be excused?

Mr. Dooley: He may as far as the defendant is concerned.

The Court: All right. You may be excused.

Mr. Hertogs: May I ask one question, please?

The Court: Oh, yes.

Redirect Examination

Q. (By Mr. Hertogs): At the time you arrived at Seattle, Washington, in 1939, who was larger, you or your brother Keung?

A. Very close. When I left him, we were both about the same size. He might be a little heavier than I am, but about the same size.

Q. How about height?

A. Oh, let's see. Height, at the time I arrived there, I think I am just a little shy of five feet. I was a little shy of five feet high.

Q. How about Keung, was he taller or shorter than you?

A. You wouldn't notice the tallness over me, but he probably actually, I think he is a little taller than myself, because we, you know, our friends

(Testimony of Wong Kwok Foo.)

often tease about us being twins and all that, so that is how I happen to recall.

Mr. Hertogs: I have no further questions of this witness. [84]

The Court: You may step down. You may be excused.

(Witness excused.)

Mr. Hertogs: Wong Kwok Keung.

WONG KWOK KEUNG

called as a witness herein by and on behalf of the plaintiffs, having been first duly sworn, was examined and testified as follows:

The Clerk: Will you state your name?

The Witness: Wong Kwok Keung.

The Clerk: How do you spell your last name?

The Witness: K-e-u-n-g.

Direct Examination

Q. (By Mr. Hertogs): Mr. Wong, it is going to be necessary for Mr. Dooley, who represents the government in this case here, to know what you are saying, so would you speak up rather loudly so I can hear you and he can hear you?

A. I will do my best.

Q. If you have any trouble with the questions, indicate that to the court and he will ask Mrs. Chan, the interpreter, to help you.

A. Yes.

Q. Where do you live? [85] A. Now?

Q. Yes.

(Testimony of Wong Kwok Keung.)

A. 10420 South Main, Los Angeles.

Q. Who lives with you at that address?

A. My brother, Kwok Wei Wong.

Q. Is 10420 South Main a store?

A. Behind a store. We got the house behind the store.

Q. What kind of store is located at that address?
A. Grocery store.

Q. Who owns and operates that grocery store?

A. My brother, Wong Kwok Foo.

Q. Where is he? A. At the store.

Q. Where is your brother Wong Kwok Wei?

A. In the room.

Q. He is or was in the court room earlier?

A. Yes.

Q. Did you see the last witness who was just leaving the court room?
A. I seen him.

Q. Who was that?

A. My brother Kwok Foo.

Q. Where were you born? A. In China.

Q. In what district in China? [86]

A. Kwang Tung Province, Toy Shan District, and Chung Hing Village.

Q. What is the date of your birth? Can you give it to us in American?

A. I only remember the Chinese calendar.

Q. What is it?

A. 11th year, September 3.

Q. That is the ninth month in the Chinese and the third day?
A. That's right.

(Testimony of Wong Kwok Keung.)

Mr. Hertogs: May we have that converted into American?

The Interpreter: October 22, 1922.

Q. (By Mr. Hertogs): What is the name of your father? A. Wong Ho.

Q. Des he have another name? A. Yes.

Q. What is that name? A. Wong Hing.

Q. Is that the last part of the name? Does he have a family name?

A. No, I don't think so. Wong Hing, or Wo Hing Wong. Wong is the last name.

Q. Where is your father living at the present time? A. In my brother's house. [87]

Q. In which brother's house?

A. 3424 Edgehill Drive, Los Angeles.

Q. What brother lives there at that address?

A. Wong Kwok Foo.

Q. What is the name of your mother?

A. Yee Fong Yee.

Q. Where is she living at the present time?

A. In Hong Kong now.

Q. Has she ever been to the United States?

A. No.

Q. How many brothers and sisters do you have?

A. Including me, six brothers and no sisters.

The Court: Including yourself?

The Witness: Yes, I have five brothers.

Q. (By Mr. Hertogs): What is the name of your first brother? A. Wong Loon Kwong.

Q. Where was he born? A. In China.

Q. Do you know the name of the village?

(Testimony of Wong Kwok Keung.)

A. Well, will you give me time?

Q. Yes.

A. Wong Ock Village, Hoy Shan.

Q. How old is he today?

A. Let me see. I think 44. [88]

Q. Where does he live?

A. In Seattle, Washington now.

Q. Do you know when he came to the United States?

A. Well, let me think of it. According to the Chinese calendar, he came here about 26 years, 26.

Mr. Hertogs: May we have that in the American year, Mrs. Chan?

The Interpreter: CR 26?

The Witness: Yes, CR 26.

The Interpreter: 1937.

Q. (By Mr. Hertogs): What is the name of your second brother? A. Wong Kwok Hoy.

Q. Is he the one that operates the store at 10420 South Main? A. That's right.

The Court: How old is he?

The Witness: 43.

Q. (By Mr. Hertogs): Do you know the year he was born?

A. Well, can I figure with the pencil? CR 2. No, excuse me. 3.

Q. Where was he born?

The Court: Wait a minute. CR 3 is what year?

The Interpreter: That would be 1914 or the early part of 1915. [89]

Q. (By Mr. Hertogs): Where was he born?

(Testimony of Wong Kwok Keung.)

A. In China, sir.

Q. In what village?

A. Chung Hing Village.

Q. Is that the same village you were born in?

A. Yes.

Q. When did he come to the United States?

A. You mean when?

Q. Yes, when. A. CR 22, I believe.

Mr. Hertogs: May we have that in American?

The Interpreter: 1933 to the early part of 1934.

The Court: He came to the United States before your No. 1 brother?

The Witness: Yes, before my old brother.

Q. (By Mr. Hertogs): Who is the No. 3 son?

A. No. 3?

Q. Yes. A. Me.

Q. You are No. 3? A. I am No. 3.

Q. Who is No. 4?

A. Kwok Foo, who just left.

Q. What is the date of birth of Kwok Foo, if you know?

A. You mean the birthday? [90]

Q. Birthday.

A. I don't know exactly, but I think approximately, Chinese calendar, September 9, I think.

Q. What year?

A. You mean what year he was born? 12, CR 12.

Mr. Hertogs: May we have that in American, Mrs. Chan?

The Interpreter: 1923 to early 1924.

(Testimony of Wong Kwok Keung.)

The Court: You didn't tell how old you are.
How old are you?

The Witness: 35 this year.

The Court: When were you born?

The Witness: CR-11-9-30. You mean when or
where, sir?

The Court: No, just when.

The Witness: CR-11-9-30.

Mr. Hertogs: I think that was in the record already, your Honor.

The Court: Let's get it translated.

Mr. Hertogs: She translated it earlier.

The Interpreter: 22nd of October 1922.

The Court: How old is your No. 4 brother?

The Witness: You mean Kwok Wei?

The Court: Yes.

The Witness: Kwok Wei is 27—22, I mean. [91]

The Court: 22?

The Witness: Yes.

Mr. Dooley: Is that No. 4?

The Court: No. 4?

The Witness: Yes, No. 4.

Q. (By Mr. Hertogs): That is Kwok Wei?

A. Excuse me. Kwok Foo is No. 4. I'm sorry.

The Court: Is he 22?

The Witness: No, he is less than me one year.
He is 34.

The Court: 34?

The Witness: 34.

Q. (By Mr. Hertogs): What is the name of
your No. 5? A. Kwok Wei.

(Testimony of Wong Kwok Keung.)

Q. What year was he born?

A. He was born in China.

Q. What year? A. You mean Kwok Wei?

Q. His birth, yes. A. CR 26.

Mr. Hertogs: May we have that, Mrs. Chan?

The Witness: Excuse me. I am mixed up. Let me count it. 24.

The Interpreter: CR 24 is 1935 to early 1936.

The Court: How old is your No. 5 brother? [92]

The Witness: You mean Kwok Wei?

The Court: Yes.

The Witness: 22.

Q. (By Mr. Hertogs): Do you know the month and day that he was born in that year?

A. You mean Kwok Wei?

Q. Kwok Wei. A. March 28.

Q. You are talking about the third month and 28th day in Chinese? A. No.

Q. You are talking about Chinese calendar?

A. Yes. That is Chinese calendar.

Mr. Hertogs: May we have that translated to American? That was CR 24-3-28.

The Interpreter: April 30, 1935.

Q. (By Mr. Hertogs): In what village was he born? A. Chung Hing Village.

Q. What is the name of the sixth brother?

A. Kwok Jin.

The Court: How old is he?

The Witness: He is 20.

Q. (By Mr. Hertogs): Where was he born?

A. In China.

(Testimony of Wong Kwok Keung.)

Q. What village in China? [93]

A. Chung Hing Village.

Q. Do you know in what year he was born?

A. Kwok Wei is——

Q. Kwok Jin. A. 26.

Q. Do you know the month and day in the 26th year?

A. Let me think. I try to recall. I think it was—you mean the month?

Q. The month? A. CR January.

Q. First month? A. Yes, Chinese.

Q. Do you know the day in the first month?
Can you think of the day?

A. I am not very sure. I think it is 10.

Mr. Hertogs: May we have a translation of that?

The Interpreter: 1-10 of the 26th year?

Mr. Hertogs: Yes.

The Interpreter: February 20, 1937.

Q. (By Mr. Hertogs): When did you come to the United States? A. Pardon me, sir?

Q. When did you come to the United States?

A. 1952.

The Court: How old were you when you came to the United States? [94]

The Witness: 31, sir.

The Court: You were 31 when you came to the United States?

The Witness: Yes, when I came to the United States.

Q. (By Mr. Hertogs): I show you Plaintiffs'

(Testimony of Wong Kwok Keung.)

Exhibit No. 1 and ask you if you recognize the photograph of the persons thereon.

A. That is Kwok Foo.

Q. Who is Kwok Foo?

A. My brother, fourth brother.

Q. Is the person that was in this court room earlier?

A. He just left.

Q. I show you Plaintiffs' Exhibit No. 3-A for identification and ask you if you recognize the photograph of the person contained on the back side thereof.

A. Kwok Wei.

Q. Who is Kwok Wei?

A. My fifth brother.

Q. Is he the boy who is in the back room?

A. Yes, in the back room.

Q. Did he come to the United States with you?

A. Yes.

Q. I show you Plaintiffs' Exhibit No. 3-B for [95] identification and ask you if you recognize the picture of the person on the back side thereof.

A. That is my picture.

Q. Is that your signature up at the top of the reverse side?

A. That's right. You mean the signature?

Q. Yes. A. That is my signature.

Q. Do you recall making this application at the American Consulate in Hong Kong?

A. I signed this, and this is my signature. This is what I remember. That wasn't typed by me.

Q. This is your signature? A. Yes.

(Testimony of Wong Kwok Keung.)

Mr. Hertogs: I will ask that Exhibit 3-B be admitted in evidence.

The Court: It may be admitted in evidence.

The Clerk: It has already been admitted.

Q. (By Mr. Hertogs): I will show you Plaintiffs' Exhibit No. 4 for identification and ask you if you recognize the photograph of the person thereon. A. This is my father's picture.

Q. What is his name? A. Wong Ho.

Q. Is he the person that is in the back room here today? [96]

A. Yes, with my brother.

Q. I will show you Plaintiffs' Exhibit No. 5 for identification and ask you if you recognize the picture of the person thereon.

A. That is my picture.

Q. Turning to the inside page, I will ask you if you recognize the signature at the bottom thereof.

A. Yes, that is my signature.

Q. Is this the document that was issued to you by the American Consulate General in Hong Kong?

A. That's right.

Mr. Hertogs: I will ask that Plaintiffs' Exhibit No. 5 for identification be admitted in evidence.

The Court: It may be admitted in evidence.

Mr. Dooley: Except for the purpose of the picture——

The Court: Mr. Dooley, if the government issues a certificate of identification, don't you think he has a right to have it introduced?

Mr. Dooley: Yes, for the purpose of showing a

(Testimony of Wong Kwok Keung.)

certificate was given him but not for any of the statements that might be contained thereon.

The Court: If you are making an objection, it is overruled. It may be introduced in evidence.

The Clerk: Exhibit 5. [97]

(The document referred to was received in evidence and marked as Plaintiffs' Exhibit No. 5.)

Q. (By Mr. Hertogs): I show you Plaintiffs' Exhibit 6 for identification and ask you if you recognize the picture of the person thereon.

A. My brother.

Q. What is his name? A. Kwok Wei.

Q. Is that the same boy that is in the back room? A. Yes, sir.

Q. I show you Plaintiffs' Exhibit No. 7 for identification and ask you if you recognize the picture on the second page thereof.

A. This is my picture, sir.

Q. Is that your picture? A. Yes.

Q. Is that your name on the front side thereof?

A. Yes.

Q. Was this issued to you by the Crown Colony of Hong Kong? A. That's right, sir.

Mr. Hertogs: I will ask that it be admitted in evidence.

The Court: It may be admitted in evidence.

Mr. Dooley: I object to anything except the [98] photograph which appears on the document as being hearsay and not authenticated, lacking foundation.

The Court: Objection overruled. Is that 7?

(Testimony of Wong Kwok Keung.)

The Clerk: Exhibit 7.

(The document referred to was received in evidence and marked as Plaintiffs' Exhibit No. 7.)

Q. (By Mr. Hertogs): I show you Plaintiffs' Exhibit No. 8 for identification and ask you if you recognize the picture thereon.

A. My brother, Kwok Wei.

Q. I show you a group of photographs which have been admitted in evidence. I show you Plaintiffs' Exhibit 3-C. I will ask you if you have ever seen that before.

A. Yes.

Q. Did you submit that photograph to the American Consulate General at Hong Kong?

A. I sent it to the Consulate at Hong Kong.

Q. Can you tell us who these people are from left to right? Who is the one in the white shirt?

A. Kwok Foo.

Q. Who is Kwok Foo?

A. My brother, fourth brother.

Q. Is that the person that was previously here in the court room?

A. Right. [99]

Q. The person in the back here in the middle?

A. My father, Wong Ho.

Q. Is he the person that is in the back room?

A. That's right.

Q. The person in front of your father?

A. My mother.

Q. Your mother? A. Yes.

Q. And what is her name?

A. Yee Fong Yee.

(Testimony of Wong Kwok Keung.)

Q. And the person at the right-hand side in the white shirt? A. That is me.

Q. That is you? A. Yes.

The Court: Where was that photograph taken?

The Witness: When?

The Court: Where?

The Witness: In Canton.

Q. (By Mr. Hertogs): Do you know when it was taken? A. In Canton.

Q. About what year?

A. Oh, let's see. About, according to Chinese calendar, about around 23.

Mr. Hertogs: Mrs. Chan, can you convert that to American, please? [100]

The Interpreter: 1934.

Q. (By Mr. Hertogs): I will show you Plaintiffs' Exhibit No. 3-E. Have you seen that photograph before? A. Yes.

Q. We will have to take this slow and easy. I have made little numbers on here. I am going to start with No. 1. Who is that?

A. That is my picture.

Q. That is you? A. Yes.

Q. Who is the person right under No. 2?

A. Kwok Foo.

Q. Who is Kwok Foo?

A. My fourth brother.

Q. The person under No. 3?

A. Kwok Hoy.

Q. Who is Kwok Hoy?

A. My second brother.

(Testimony of Wong Kwok Keung.)

Q. Is he the one that operates the store where you live? A. That's right.

Q. This person right under No. 4?

A. My sister-in-law.

Q. What is her name? [101]

A. Ma Sin Kum.

Q. Where does she reside?

A. 3424 Edgehill Drive. She is Kwok Foo's wife.

Q. This little child on her left, No. 5?

A. My nephew.

Q. Whose child is that? A. Soo Jung.

Q. Who is his father? A. Kwok Foo.

Q. This person at the right, No. 6 here?

A. That is my wife.

Q. What is the name of your wife?

A. Yee Ling Hun.

Q. Where is she at the present time?

A. In Hong Kong now.

Q. This person by No. 7 here?

A. My youngest brother, Kwok Jin.

Q. The next one over here, No. 8?

A. My mother.

Q. That is your mother? A. My mother.

Q. What is her name once again?

A. Yee Fong Yee.

Q. She is holding a child I have marked No. 9.

A. My son. [102]

Q. That is your son, and what is his name?

A. Sol Bing.

Q. This female person, the one under 10?

(Testimony of Wong Kwok Keung.)

A. That is my sister-in-law.

Q. Who is her husband? A. Kwok Hoy.

Q. What is her name? A. Ma Kin Chui.

Q. Where is she today?

A. At 104th Street, 206 West 104th Street in Los Angeles.

Q. She is holding a little child we have marked No. 11. A. Soo Chow.

Q. Who is he?

A. Her son and my nephew.

Q. There is one over on the right-hand side marked 12. A. That is Kwok Wei.

Q. Where was that picture taken?

A. When?

Q. All right, when.

A. Before Kwok Hoy and Kwok Foo came back to America.

Q. What year was that? A. '38.

Q. Do you know where it was taken? [103]

A. I know in my village.

Q. You talk about Kwok Foo and Kwok Hoy coming back to America. Were they in China recently? A. Yes.

Q. When did they go to China?

A. When? Kwok Foo went to China before Kwok Hoy.

Q. In what year did Kwok Foo come back to China? A. 36, CR 36.

Mr. Hertogs: May we have CR 36 put into the American calendar?

The Interpreter: 1947 or early 1948.

(Testimony of Wong Kwok Keung.)

Q. (By Mr. Hertogs): When did Kwok Hoy come back to China?

A. About two months later than Kwok Foo did.

Q. Did they come back to the United States together?

A. Yes, sir.

Q. During that time they were in China, did they live in Chung Hing Village?

A. That's right, sir.

Q. When is the first time you ever remember seeing Kwok Foo? When do you first recall?

A. You mean in the United States?

Q. No. The first time you ever remember seeing him.

Q. Kwok Foo? The first time? Well, we born in the same village and go to the same school. I see him all the time. [104]

Q. Did you always live with him?

A. Not always. Until he came to America.

Q. Did you live with him, as far as you can remember, all the time until he came to America?

A. Yes, sir.

Q. Did you live in the same house?

A. Same house.

Q. Did you identify the same person as your mother?

A. What do you mean?

Q. What was the name of your mother?

A. Yee Fong Yee.

Q. What was the name of his mother?

A. Yee Fong Yee, too.

Q. Was that the same person?

A. Oh, yes.

(Testimony of Wong Kwok Keung.)

Q. Were you living in your home in the village—— A. That's right.

Q. Wait. Were you living in your home in the village when your brother Kwok Wei was born?

A. Yes, I think so.

Q. Do you remember? A. Yes.

Q. Do you remember him being born?

A. You mean Kwok Wei? [105]

Q. Kwok Wei.

A. I don't remember the details, how he was, but I remember I and Kwok Foo were home at that time.

Q. Is the boy who is in the back room here today the same boy that was born in your village in CR 24, which is 1935 in the American calendar?

A. That's right, sir.

Q. Was that boy born to your mother?

A. Yes.

Q. What is the name of your father?

A. Wong Ho.

Q. What is the name of the father of Wong Kwok Wei? A. Wong Ho.

Q. The same person? A. Oh, yes.

The Court: I think we will take the afternoon recess now. We will now take a recess until 15 minutes after 3:00.

(Recess.)

Q. (By Mr. Hertogs): I will show you Plaintiffs' Exhibit No. 3-D for identification and ask you if you recognize that photograph. A. Yes.

Q. Who are those persons?

(Testimony of Wong Kwok Keung.)

A. My mother and me. [106]

Q. I will show you Plaintiffs' Exhibit 3-F for identification and ask you if you recognize the photograph on the second page thereof.

A. That is my picture.

Q. I will show you a card issued to you by Lingnan University? A. Yes.

Q. Does it have your name up there?

A. Yes.

Q. What name is there?

A. Wong Kwok Keung.

Q. I show you 3-G for identification and ask you if you have seen this letter before.

A. Yes.

Q. Whose picture is at the bottom?

A. My picture.

Q. Where did you get this letter?

A. From the head of the department of civil engineering at Lingnan University.

Mr. Hertogs: I will ask that Plaintiffs' Exhibit 3-D for identification, 3-F for identification, and 3-G for identification be admitted in evidence.

Mr. Dooley: No objection to 3-D.

The Court: It may be admitted.

Mr. Dooley: 3-F, defendant objects to [107] everything except the photograph.

The Court: Overruled. It may be admitted.

Mr. Dooley: That is objected to as being hearsay, irrelevant and immaterial.

3-G, defendant objects to everything except the photograph as being hearsay, irrelevant, immate-

(Testimony of Wong Kwok Keung.)

rial, and having no bearing whatsoever on the issues in this case.

The Court: Overruled. It may be received in evidence.

The Clerk: 3-D, 3-F, and 3-G in evidence.

(The exhibits referred to were received in evidence and marked as Plaintiffs' Exhibits 3-D, 3-F, 3-G.)

Q. (By Mr. Hertogs): Referring to Plaintiffs' Exhibit 3-H for identification, I will show you a group of envelopes. I don't know if they contain letters or not. They feel like it. Did you bring these envelopes to the American Consulate General at Hong Kong? A. Yes, sir.

Q. Can you tell me to whom these envelopes are addressed?

A. Yes. That is my father sent to my mother that one.

Q. That is the top one of the group?

A. Yes.

Q. That is the one with the stamp of June 17, 1946? A. Yes. [108]

Q. The second one, which has a stamp on the reverse side, May 3, 1948?

A. This my father sent to me.

Q. The third one, Los Angeles, December 27, 1949? A. This my brother sent to me.

Q. Which brother? A. Kwok Foo.

Q. The next one in line, which contains a stamp of January 5, 1950.

A. This my brother sent to me.

(Testimony of Wong Kwok Keung.)

Q. The next one, December 21, 1949.

A. This my brother sent to me.

Q. This one here that has a stamp dated March 13, 1950.

A. This my father sent to me.

Q. This one with the stamp of September 12, 1949.

A. This my father sent to me.

Q. And this one with the stamp January 17, 1950.

A. This my father sent to me.

Q. And the next one, January 20, 1950.

A. This my father sent to me.

Q. And the last one, with the stamp of February 6, 1950.

A. This my father sent to me.

Q. I refer particularly to the envelope dated [109] January 17, 1946. Where is this addressed to?

A. Kwan Tung, Toy Shan, Chew Ging Market, Wing Hong Sun. That is the store's name, because in the market only my father send a letter to the store and the store sent to my father.

Q. What is the next one?

A. Kwok Keung's mother.

Q. I refer to the one January 5, 1950, to what place is that addressed?

A. Canton.

Q. What is the rest of it?

A. That is the number of the house. It is the number of the house.

Q. To whom is this addressed?

A. This one from me.

Q. What is the name up here?

A. This is my name, Wong Kwok Keung.

Q. Who is the other name?

A. That means son.

(Testimony of Wong Kwok Keung.)

Q. Son of who?

A. My father call me son, Wong Kwok Keung, son, that is the translation.

Mr. Hertogs: I will ask that this group of envelopes be withdrawn from Plaintiffs' Exhibit 3-H for identification and that they be marked Plaintiffs' Exhibit 3-I. [110]

The Court: They may be marked.

The Clerk: That will be Exhibit 3-H-1.

(The exhibit referred to was received in evidence and marked as Plaintiffs' Exhibit 3-H-1.)

Q. (By Mr. Hertogs): I will show you a group of receipts contained in Plaintiffs' Exhibit 3-H for identification. I will ask you if you presented this group of receipts to the American Consulate General at Hong Kong.

A. Yes, I present them.

Q. Were these in your possession?

A. No. I think my father kept them. I asked my father. I presented them to the Consulate.

The Court: Did you present them to the American Consul?

The Witness: Yes.

The Court: You took them there?

The Witness: I sent them to the Consul there because the Consul ask me for them.

Mr. Hertogs: I will ask this group be marked as Plaintiffs' Exhibit 3-H-2, and I will ask that they be admitted in evidence.

Mr. Dooley: Just a moment. May I ask one or two questions on voir dire?

(Testimony of Wong Kwok Keung.)

The Court: Yes. [111]

Voir Dire Examination

Q. (By Mr. Dooley): You got these receipts from whom when you presented them to the American Consulate? A. From my father.

Q. Did you receive the money indicated on all these receipts? A. Oh, yes.

Q. Will you look at them?

A. What year is that? I think so, sir.

Q. You are not sure?

A. Because it is a long time ago. I think I received all the money.

Mr. Dooley: No objection.

The Court: It may be received in evidence.

The Clerk: Exhibit 3-H-2.

(The exhibit referred to was received in evidence and marked as Plaintiffs' Exhibit 3-H-2.)

Q. (By Mr. Hertogs): I will ask you if you would read the Chinese characters on this one that is dated 8/17/1945, by the payee's name. What name appears there?

A. Wong Kwok Keung accept.

Q. What address appears?

A. Canton, Toy Shan, Chew Ging Market, Hai Sun. That is the store's name. [112]

Q. The characters across the bottom down here which is by the remitter's name.

A. Wong Wo Hing.

Mr. Hertogs: I will ask the government to produce the Immigration file relating to the arrival record of Wong Kwok Hoy.

(Testimony of Wong Kwok Keung.)

I will ask that the file 7030/5636 relating to Wong Kwok Hoy be marked plaintiffs' exhibit next in order for identification.

The Court: It may be marked.

The Clerk: Plaintiffs' Exhibit 9 for identification.

(The file referred to was marked as Plaintiffs' Exhibit No. 9 for identification.)

Q. (By Mr. Hertogs): I will show you Plaintiffs' Exhibit 9 for identification and ask you if you recognize the picture of this person.

Q. Kwok Hoy.

Q. I will refer to Plaintiffs' Exhibit No. 2 for identification and ask you if you recognize this person.

A. Kwok Foo.

Q. In each case I am referring to the first photograph appearing in the file from the top thereof.

A. Yes.

Mr. Hertogs: I have no further questions of this witness, your Honor. [113]

The Court: Do you wish to postpone your cross examination?

Mr. Dooley: Yes, your Honor, I would like to postpone the cross examination.

The Court: All right.

(Witness withdrawn.)

Mr. Hertogs: I would suggest we use the interpreter with the next witness. He understands some English, but he can't speak it very fluently.

The Court: All right.

WONG HO

called as a witness by and on behalf of the plaintiffs, having been first duly sworn, was examined and testified through the interpreter as follows:

The Clerk: Will you state your name?

The Witness: Wong Ho is my name.

Direct Examination

Q. (By Mr. Hertogs): Do you also have another name, Mr. Wong? A. Wong Ho Hing.

Q. Where are you residing at the present time?

A. I am living now in Los Angeles. [114]

Q. Where do you live in Los Angeles?

A. I couldn't pronounce the word, but I will write it. 3424 Edgehill Drive.

Q. I show you Plaintiffs' Exhibit No. 4 for identification and ask you if you recognize this document.

A. This is my certificate of identity.

Q. Is that your picture? A. Yes.

Q. Do you remember when and where you received this certificate?

A. In San Francisco.

Q. Do you recall about the approximate year?

A. About CR 3.

Mr. Hertogs: May we have the American date for that, Mrs. Chan?

The Interpreter: 1914.

Q. (By Mr. Hertogs): Are you married, Mr. Wong? A. Yes.

Q. What is the name of your wife?

A. Yee Fong Yee.

(Testimony of Wong Ho.)

Q. Where were you married?

A. In China.

Q. Where in China? A. Hoy Ping.

Q. What village in Hoy Ping? [115]

A. Wong Ock Village, Hoy Ping District.

Q. Do you know the date of your marriage?

A. First year of the Republic of China, 12th month, 10th day.

Mr. Hertogs: Will you give us the American date, please?

The Interpreter: January 16, 1913.

Q. (By Mr. Hertogs): At the time that you arrived at the Port of San Francisco in 1914, were you questioned and examined by the Immigration Service?

The Interpreter: He is answering the question by saying CR first year I left here to return to the old country.

Q. (By Mr. Hertogs): When you returned to the Port of San Francisco in 1914, were you questioned and examined by the Immigration Service?

A. Yes.

Q. At that time were you asked if you were married? A. Yes.

Q. Did you advise the Immigration and Naturalization Service that you were married?

A. Yes.

Q. How many times have you been married?

A. Once.

Q. Where is your wife at the present time?

A. In China, now in Hong Kong. [116]

(Testimony of Wong Ho.)

Q. Has she ever been to the United States?

A. No.

Q. After you returned to the United States in 1914, how many other trips did you make to China?

A. Two times more.

Mr. Hertogs: I will ask, Mr. Dooley, that you stipulate to the departure and arrival dates as reflected by the official records of the Immigration Service.

Mr. Dooley: Our records show he departed December 10, 1921.

The Court: Not so fast, Mr. Dooley. December what?

Mr. Dooley: December 10, 1921, and returned December 14, 1923.

Departed May 30, 1934, and returned June 23, 1937.

Mr. Hertogs: We will stipulate to those facts, your Honor.

Q. How many children have you and your wife had?

A. All together six.

Q. How many are boys and how many are girls?

A. All boys.

Q. What is the name of your oldest son?

A. Wong Loon Kwong.

Q. When was he born?

A. CR 2-11-10.

Mr. Hertogs: May we have it translated in English, please? [117]

The Interpreter: December 7, 1913.

Q. (By Mr. Hertogs): Where was he born?

A. Wong Oak Village, Hoy Ping.

(Testimony of Wong Ho.)

Q. Where is he at the present time?

A. He is now in Seattle.

Q. When did he come to the United States?

A. 1937.

Q. Does he have any family of his own in China? A. No.

Q. What is the name of your second son?

A. Wong Kwok Hoy.

Q. Where was Wong Kwok Hoy born?

A. Toy Shan, Chung Hing Village.

Q. What was the date of his birth?

A. CR 3-9-9.

Mr. Hertogs: The English, please?

The Interpreter: October 27, 1914.

Q. (By Mr. Hertogs): Where is Wong Kwok Hoy at the present time?

A. He is in Los Angeles now.

Q. Where does he live?

A. 206, his home is at West 10th Street, Los Angeles.

Q. Are you sure of that street?

A. Yes. [118]

Q. Does he own and operate a grocery store?

A. Main Street.

Q. What is the number?

A. South Main Street.

Q. What is the number on South Main Street?

A. 10420 South Main Street.

Q. How far does he actually live from that store at 10420 South Main Street?

A. About a block, about a block or so distance.

(Testimony of Wong Ho.)

Q. When did Wong Kwok Hoy come to the United States? A. 1933.

Q. Since his arrival in 1933, has he made any trips back to China? A. Yes.

Q. How many? A. Once.

Q. When did he go? A. 1947.

Q. How long did he stay in China?

A. Not quite two years.

Q. Do you recall the time he returned to the United States? A. The end part of 1949.

Q. Is that the only trip he has made since his arrival in 1933? [119] A. Yes.

Q. What is the name of your third son?

A. Wong Kwok Keung.

Q. Where was he born?

A. Chung Hing Village.

Q. What was the date of his birth?

A. He was born in 1922.

Q. Do you know the month and day?

A. Chinese month was ninth month, third day.

Mr. Hertogs: May we have the ninth month and third day converted to English in 1922, please?

The Interpreter: October 22, 1922.

Q. (By Mr. Hertogs): Where is Wong Kwok Keung at the present time? A. Here.

Q. Was he in the court room earlier today?

A. Yes.

Q. When did he come to the United States?

A. 1952.

Q. Do you remember the month?

(Testimony of Wong Ho.)

A. At that time it was about Chinese New Year's, I think, around February.

Q. Did anyone else come with him at that time?

A. No. 5 came with him.

Q. What is the name of your fourth son? [120]

A. Wong Kwok Foo.

Q. Where was he born?

A. Also in Chung Hing Village.

Q. What is the date of his birth?

A. 1923 is the year, Chinese month is eighth month, eighth day.

Mr. Hertogs: Will you convert that to English, please, for us?

The Interpreter: September 18th.

Q. (By Mr. Hertogs): Where is Wong Kwok Foo at the present time? A. In L. A.

Q. Where does he live?

A. The same place I am living now, 3424 Edgehill Drive.

Q. When did he come to the United States?

A. 1939.

Q. Since his arrival in 1939, has he made any trips back to China? A. Yes.

Q. How many? A. Once.

Q. When did he go? A. 1947.

Q. How long did he stay there?

A. Also not quite two years. [121]

Q. Do you know when he returned to the United States?

A. Same time as Hoy returned in 1949.

(Testimony of Wong Ho.)

Q. In other words, he and Hoy came back to the United States together? A. Yes.

Q. Was Wong Kwok Foo here in the court room earlier today? A. That is true.

Q. Did you bring Wong Kwok Foo to the United States as your son? A. Yes.

Q. What is the name of your fifth son?

A. Kwok Wei.

Q. Where was he born?

A. Also Chung Hing Village.

Q. What was the date of his birth?

A. 1935.

Q. What is the month and day?

A. Chinese date, third month, 28th day.

Mr. Hertogs: Will you give us the English, please?

The Interpreter: April 30, 1935.

Q. (By Mr. Hertogs): Where is Wong Kwok Wei living at the present time?

A. Also in L. A.

Q. With whom does he reside in Los Angeles?

A. The grocery with Hoy.

Q. Does anyone else live there?

A. Kwok Keung, also.

Q. Where do they live in relation to the grocery?

A. Back of the grocery store there is a house.

Q. When did he come to the United States?

A. At the time that Kwok Keung came.

Q. What is the name of your sixth son?

A. Wong Kwok Jin.

(Testimony of Wong Ho.)

Q. Where was he born?

A. Chung Hing Lee.

Q. When was he born?

A. 1937 is the year.

Q. The month and date, please?

A. Chinese month, first month, 10th day.

The Interpreter: February 20, 1937.

Q. (By Mr. Hertogs): Where does he reside at the present time?

A. In the village in China.

Q. At the time of your return to the United States on December 14, 1923, were you questioned and examined by the Immigration and Naturalization Service? A. Yes.

Mr. Hertogs: At this time I will ask the government to produce the signed statement made by the witness to [123] the Immigration and Naturalization Service at the time of his return on December 14, 1923.

I will ask that the Immigration and Naturalization Service, Seattle office, file 7030/6552 relating to Wong Ho be marked as plaintiffs' exhibit next in order for identification.

The Court: It may be marked.

The Clerk: Exhibit 10 for identification.

(The file referred to was marked as Plaintiffs' Exhibit No. 10 for identification.)

Q. (By Mr. Hertogs): I will show you Plaintiffs' Exhibit 10 for identification and I will show you a sheet which is marked, "Chinese landed direct from steamer on identification, No. 1033/3-4,

(Testimony of Wong Ho.)

SS" — there is a name I can't identify there, and dated December 14, 1923, and ask you if you recognize the signature at the bottom of that form.

A. Yes, that is my name.

Q. Is that your signature? A. Yes.

Q. At the time of your return to the United States on your next trip, June 23, 1937, were you questioned and examined by the Immigration Service? A. What year did you say?

Q. 1937. A. Yes. [124]

Q. Prior to making that trip to China, were you also questioned and examined by the Immigration Service when you applied for a citizen's return certificate? A. That's right, that's right.

Q. I show you a signature contained at the bottom of a statement taken at the Seattle office of the Immigration and Naturalization Service on May 29, 1934, contained in Plaintiffs' Exhibit No. 10 for identification and ask you if you recognize that signature. A. Yes, sir.

Q. Whose signature is that? A. Mine.

Q. I will also show you a sworn statement, Seattle, Washington, SS President Jackson, dated June 23, 1937, file No. 26803/17/14, contained in Plaintiffs' Exhibit No. 10 for identification, and ask you if you can identify the signature at the bottom of that page. A. Yes.

Q. Who is that?

A. Wong Ho, my signature.

Q. Did you sign that form? A. Yes.

(Testimony of Wong Ho.)

Mr. Hertogs: I will ask that Plaintiffs' Exhibit No. 10 be admitted in evidence.

Mr. Dooley: Your Honor, defendant objects for the [125] same reason as before. With respect to the particular documents that are identified, they might be perhaps separated and a different ruling made on each. However, all of the entire file contains a lot of hearsay material and various statements that the witness may have made at one time, and while they might be used for proper impeachment, certainly they don't constitute substantive evidence.

Mr. Hertogs: I will withdraw the request.

I will ask one be marked 10-A, 10-B, and the third one 10-C, and that those three which I have referred to and presented to the witness for examination and identification as to signature be admitted in evidence.

The Court: Such may be the order.

The Clerk: Exhibits 10-A, 10-B and 10-C.

(The exhibits referred to were received in evidence and marked as Plaintiffs' Exhibits 10-A, 10-B and 10-C.)

Mr. Dooley: Defendant also objects to those as being hearsay and self-serving statements previously made.

The Court: Overruled.

Mr. Dooley, I don't see how the government can in good conscience object to the records they made. They are the ones who made the records. It is on that that they base their opinion.

Mr. Dooley: Your Honor, they can be used for impeachment, [126] but the witness is before the court and if he testifies that this person is his child, I mean he can't impeach himself, nor can he build up his testimony by recounting at a previous time he made a statement.

The Court: Can't they show that 10 years ago or 20 years ago they testified exactly the same way?

Mr. Dooley: I think that is self-serving, your Honor. It is a prior consistent statement.

The Court: We don't see this eye to eye, Mr. Dooley.

Mr. Dooley: No, your Honor.

The Court: Objection overruled. They may be received in evidence.

How much more have you got of this witness?

Mr. Hertogs: Probably it will take 45 minutes or more, your Honor. We haven't even started with the exhibits.

The Court: Are we going to be able to finish this case tomorrow?

Mr. Dooley: How many more witnesses do you have?

Mr. Hertogs: I have the other plaintiff and one more brother.

Mr. Dooley: It seems doubtful.

The Court: Then we better continue with this witness. I like to quit at 4:00 o'clock.

Mr. Hertogs: There aren't very many witnesses in [127] the other case.

The Court: It won't take as long?

Mr. Hertogs: No, it will not. Even one of the

plaintiffs has now passed away. There is only one plaintiff left.

The Court: I am willing to quit now, but you are the ones that are going to have to estimate the time. I want to finish up Friday night.

Mr. Hertogs: We will do our best to see we are finished by Friday night.

The Court: Do you want to quit now?

Mr. Dooley: I prefer to go on. In fact, if we could finish tomorrow, I thought we could finish the other case Thursday. I have a case before Judge Byrne that he wants me to try on Friday.

The Court: Then maybe you will cut out some of your cross examination.

Mr. Dooley: I just learned a few minutes ago that Judge Byrne did want me.

The Court: You tell Judge Byrne I have prior rights.

Court will now stand in recess until 10:00 o'clock tomorrow morning.

(Whereupon, an adjournment was taken to 10:00 o'clock, a.m., Wednesday, January 23, 1957.) [128]

January 23, 1957, 10:00 o'clock, a.m.

The Clerk: Wong Kwok Keung and Wong Ho as guardian ad litem of Wong Kwok Wei, vs. John Foster Dulles, further trial.

The Court: Are you ready?

Mr. Hertogs: Ready, your Honor.

Mr. Dooley: Ready.

The Court: You may proceed.

WONG HO

the witness on the stand at the time of the adjournment, being previously duly sworn, was examined and testified further through the interpreter as follows:

Direct Examination—(Continued)

Q. (By Mr. Hertogs): I will show you Plaintiffs' Exhibit No. 1 and ask you if you recognize the picture of the person thereon.

A. Wong Kwok Foo.

Q. Who is Wong Kwok Foo?

A. The fourth boy of mine.

Q. I believe you identified Plaintiffs' Exhibit No. 4 for identification, but once again would you identify the picture on that document.

A. Myself, Wong Ho. [131]

Mr. Hertogs: I will ask that it be admitted in evidence, your Honor.

The Court: It may be admitted. What is the number?

Mr. Hertogs: 4, your Honor.

The Clerk: Exhibit 4.

(The exhibit referred to was received in evidence and marked as Plaintiffs' Exhibit No. 4.)

Q. (By Mr. Hertogs): I will show you Plaintiffs' Exhibit No. 5 and ask you if you recognize the photograph at the bottom of the first page.

A. Wong Kwok Keung, No. 3 son.

Q. I show you Plaintiffs' Exhibit No. 6 for identification and ask you if you recognize the photograph at the bottom of that document.

(Testimony of Wong Ho.)

A. Wong Kwok Wei, No. 5 son.

Q. I show you Plaintiffs' Exhibit No. 7 and ask you if you recognize the photograph of the boy on the second page.

A. Wong Kwok Keung.

Q. I show you Plaintiffs' Exhibit No. 8 for identification and ask you if you recognize the photograph on the second page of that document.

A. Wong Kwok Wei.

Q. I show you Plaintiffs' Exhibit No. 2 for identification, the first picture contained in that file, and ask you if [132] you recognize that person.

A. Wong Kwok Foo, No. 4.

Q. When did Wong Kwok Foo come to the United States?

A. 1939.

Q. At what port did he arrive?

A. Seattle.

Q. At the time he arrived at the Port of Seattle in 1939, did you appear and testify in his behalf?

A. Yes.

Q. At that time were you examined extensively concerning the various members of your family?

A. Yes.

Q. I will show you a signature contained at the bottom of page 14 of the transcript of the hearing taken at the Port of Seattle, Washington, Immigration and Naturalization Service, on August 2, 1939, and ask you if you recognize that signature.

A. That is my signature.

Q. I will show you Plaintiffs' Exhibit No. 9 for identification, and the first picture contained in that file, and ask you if you recognize that photograph.

(Testimony of Wong Ho.)

A. Wong Kwok Hoy.

Q. Who was Wong Kwok Hoy?

A. My second boy.

Q. When did Wong Kwok Hoy come to the United States? [133]

A. 1933.

Q. At what port did he arrive?

A. Also Seattle.

Q. At the time Wong Kwok Hoy arrived at the Port of Seattle in 1933, did you appear and testify in his behalf?

A. Yes.

Q. I will show you a signature contained in the middle of page 24 of the transcript of hearing at Seattle, Washington, on July 17, 1933, and ask you if you can recognize that signature.

A. Yes.

Q. At the time you appeared and testified at the Port of Seattle, Washington, in 1933, in connection with the arrival of Wong Kwok Hoy, were you questioned extensively concerning your family?

A. That's right, true.

Q. I will show you Plaintiffs' Exhibit No. 3-A and ask you if you can recognize the picture on the reverse side thereof.

A. Wong Kwok Wei.

Q. Who is Wong Kwok Wei?

A. No. 5 son.

Q. I will show you Plaintiffs' Exhibit No. 3-B and ask you if you can recognize the photograph on the reverse side thereof. [134]

A. Wong Kwok Keung, No. 3.

Q. I show you Plaintiffs' Exhibit No. 3-C and ask you if you have ever seen that photograph before.

A. Yes.

(Testimony of Wong Ho.)

Q. Do you know the people in that photograph?

A. Yes.

Q. Would you identify these people, if you can, left to right? This one on the left-hand side in the white shirt?

A. Wong Kwok Foo on the left side.

Q. Who is this person in the back, in the middle? A. Myself.

Q. And the person directly in front of you?

A. My wife.

Q. And the person in the white shirt on the right-hand side of the photograph?

A. Wong Kwok Keung on the right.

Q. I show you Plaintiffs' Exhibit No. 3-D and ask you if you can recognize those people.

A. Left side sitting down is my wife facing the picture. I think it is Kwok Keung standing up there.

Mr. Dooley: He said he thought it was?

The Witness: Kwok Keung.

Q. (By Mr. Hertogs): Have you ever seen that photograph before? A. No. [135]

Q. I show you Plaintiffs' Exhibit No. 3-E and ask you if you can recognize any people in that photograph. A. I think so.

Q. You will notice in that photograph we have placed little numbers above each person. Will you lean over so you can get more light? Can you tell me the name of the person directly under No. 1?

A. Wong Kwok Keung.

Q. The person right directly under the figure 2?

(Testimony of Wong Ho.)

A. Wong Kwok Foo.

Q. The person directly under No. 3?

A. Kwok Hoy.

Q. The person way over here at the left-hand side under No. 4? A. Kwok Foo's wife.

Q. The little child she is holding marked No. 5?

A. Son of Kwok Foo.

Q. The person here by No. 6?

A. Kwok Keung's wife.

Q. The person directly under No. 7?

A. Kwok Jin.

Q. No. 8, the person directly underneath here?

A. My wife.

Q. The little child down here with a 9 written on him?

A. I think it is Kwok Keung's son, Sol Bing.

Q. No. 10? A. Kwok Hoy's wife.

Q. No. 11, the child she is holding?

A. Kwok Hoy's child.

Q. No. 12, way over here on the right-hand side?

A. Kwok Wei, No. 5 son.

Q. I show you Plaintiffs' Exhibit No. 3-F and ask you if you can recognize the photograph of that person. A. Kwok Keung.

Q. I show you 3-G and ask you if you can recognize the photograph of that person.

A. Kwok Keung.

Q. Now, I show you Plaintiffs' Exhibit 3-H-1. Do you recognize any of those envelopes?

A. This one is sent by me.

(Testimony of Wong Ho.)

Q. You are referring to the one bearing the postmark June 17, 1946? A. Yes.

Q. To whom was that written?

A. To my wife.

Q. Do you recognize this one, bearing postmark May 8, 1948? A. Yes, also mine.

Q. Who is that written to?

A. Kwok Keung. [137]

Q. Do you recognize this one bearing date of December 27, 1949? A. I think Kwok Foo.

Q. Do you recognize that one bearing postmark dated January 9, 1950? A. This is mine.

Q. Who is that to? A. Kwok Keung.

Q. Do you recognize this one bearing the date of December 31, 1949? A. Also mine.

Q. Who is it written to?

A. Kwok Keung again.

Q. This one bearing date of March 13, 1950, do you recognize that? A. Also sent by me.

Q. To whom? A. Kwok Keung.

Q. Do you recognize this one bearing date September 12, 1949?

A. Also for Kwok Keung.

Q. This one bearing date January 17, 1950?

A. Also mine to Kwok Keung.

Q. This one bearing date January 20, 1950?

A. For Kwok Keung, the same. [138]

Q. This one bearing date of February 6, 1950?

A. Yes, also to Kwok Keung.

Q. Did you purchase and transmit money orders to any members of your family in China?

(Testimony of Wong Ho.)

A. Yes.

Q. I show you Plaintiffs' Exhibit 3-H-2 and ask you if you recognize any of these.

A. That is mine.

Q. Your what?

A. I sent back to Kwok Keung.

Q. Do you recognize this one?

A. Yes, also Kwok Keung.

Q. Did you send the money? A. Yes.

Q. Did you purchase the original?

A. Yes. This is the duplicate.

Q. I show you the next one.

A. Also the same.

Q. Did you purchase that for Kwok Keung?

A. This is the duplicate of the original.

Q. I will show you the next one.

A. The same thing, for the same purpose.

Q. Are the others the same?

A. Yes, for expense or tuition sent back to Kwok Keung. [139]

And this is also for Kwok Keung. That includes for the family expenses and tuition, whatever they need in China.

Q. Referring to Exhibit 3-B once again, are you the father of that boy? A. Yes.

Q. Who is the brother of that boy?

A. Yee Shee or Yee Fong Yee.

Q. Is that your wife? A. Yes.

Q. Who is the father of the child whose picture appears on Exhibit 3-A?

A. This is Kwok Wei. He is my fifth son.

(Testimony of Wong Ho.)

Q. Are you the father? A. Yes.

Q. Who is the mother of that child?

A. Yee Fong Yee.

Q. Is that your wife? A. Yes.

Q. Were you in China at the time that boy was born? A. Yes.

Q. Were you in China at the time that this boy whose picture appears on 3-B was born?

A. Yes.

Mr. Hertogs: I have no further questions of this witness, your Honor. [140]

The Court: All right. Step down.

(Witness withdrawn.)

WONG KWOK WEI

called as a witness by and on behalf of the plaintiffs, having been first duly sworn, was examined and testified as follows:

The Clerk: Will you state your name?

The Witness: Wong Kwok Wei.

Direct Examination

Q. (By Mr. Hertogs): It is going to be necessary for Mr. Dooley over here to hear you, so you will have to speak up so he can hear you.

A. All right.

Q. Where do you live? A. Right now?

Q. Yes. A. 10420 South Main Street.

Q. With whom do you reside at that address?

A. My brother.

Q. What brother?

(Testimony of Wong Kwok Wei.)

A. Second and third one.

Q. What is the name of your second brother

A. Wong Kwok Hoy. [141]

Q. What is the name of your third one?

A. Wong Kwok Keung.

Q. Where were you born? A. In China.

Q. In what village?

A. In Chung Hing Lee, Chung Hing Village.

Q. What is the date of your birth?

A. Should I say in my own language?

Q. Whatever you want.

A. In Chinese calendar?

Q. Yes. A. 24-3rd-28.

Q. Do you know it in American reckoning?

A. Oh, yes.

Q. What is it?

A. 1935-4-30, I mean the fourth month and 30th.

Q. Day? A. Yes.

Q. When did you come to the United States?

A. Almost five years ago.

Q. With whom did you come?

A. My brother.

Q. What brother? A. Third one.

Q. What is his name? [142]

A. Kwok Keung.

Q. What is the name of your father?

A. Wong Ho.

Q. I will show you Plaintiffs' Exhibit No. 4 and ask you if you recognize this person.

A. Let me see it? He seems like my father, I mean his face, that's right.

(Testimony of Wong Kwok Wei.)

Q. Where does your father live at the present time?

A. At the present time live at 3424 Edgehill Drive.

Q. Is that in Los Angeles?

A. Yes, in Los Angeles.

Q. With whom does your father reside at that address? A. My brother.

Q. What is his name?

A. Wong Kwok Foo.

Q. Was your father in this court room earlier today? A. Yes, sir.

Q. Is he the person that just left the witness stand? A. Yes, sir.

Q. What is the name of your mother?

A. Yee Fong Yee.

Q. Where is she?

A. She is in Hong Kong.

Q. When was the last time you saw her?

A. In my calendar, I say 39, the last month.

Mr. Hertogs: May we have that in English, Mrs. Chan?

The Interpreter: 1950, approximate date—no, 1951, between January and February of 1951. That would be the 12th month of the Chinese calendar.

Q. (By Mr. Hertogs): How many brothers and sisters do you have? A. I got six brothers.

Q. Is that including yourself?

A. Including myself.

Q. What is the name of your first brother?

A. Wong Loon Kwong.

(Testimony of Wong Kwok Wei.)

Q. Where is he?

A. He is in Seattle.

Q. What is the name of your second brother?

A. Wong Kwok Hoy.

Q. Where is he at the present time?

A. Los Angeles.

Q. Was he outside the court room here this morning?

A. Yes, sir.

Q. Where was he born?

A. He was born in China.

Q. What is the name of his village where he was born?

A. Same as mine.

Q. About how old is Kwok Hoy? [144]

A. Kwok Hoy is, let's see, about 43, I think.

Q. What is the name of your third brother?

A. Third brother, Wong Kwok Keung.

Q. And where is Wong Kwok Keung?

A. Right here.

Q. Did he testify yesterday?

A. Yes, sir.

Q. Where was he born?

A. In China.

Q. What village?

A. Same as mine.

Q. How old is Wong Kwok Keung?

A. Wong Kwok Keung is 35.

Q. What is the name of your fourth brother?

A. Wong Kwok Foo.

Q. Where does Wong Kwok Foo reside?

A. In Los Angeles.

Q. Where was he born?

A. In China.

Q. What village?

A. Same as mine.

Q. How old is he?

A. 34.

Q. What is the name of your fifth brother?

(Testimony of Wong Kwok Wei.)

A. Wong Kwok Wei. [145]

Q. Is that you? A. Yes, that is me.

Q. What is the name of your sixth brother?

A. Wong Kwok Jin.

Q. Where was he born? A. In China.

Q. What Village? A. Chung Hing.

Q. Where is he at the present time?

A. In China.

Q. Has he ever been to the United States?

A. No, sir.

Q. When did your brother Wong Kwok Hoy come to the United States?

A. Oh, I don't know. Some way before I do, some long ago.

Q. Did your brother Wong Kwok Foo come to the United States? A. Before I do, too.

Q. I will show you Plaintiffs' Exhibit 3-A and ask you if you recognize the picture on the reverse side thereof. A. Yes, that is me.

Q. Is that your signature up here at the top?

A. Oh, yes.

Q. Did you sign that at the American Consulate at Hong [146] Kong?

A. I don't know where I signed it. That is my signature. That is it.

Mr. Hertogs: I will ask that it be admitted in evidence, your Honor.

The Court: It may be admitted.

The Clerk: 3-A.

(The exhibit referred to was received in

(Testimony of Wong Kwok Wei.)

evidence and marked as Plaintiffs' Exhibit No. 3-A.)

Q. (By Mr. Hertogs): I show you a picture on 3-B and ask if you recognize that.

A. My third brother.

Q. What is his name? A. Kwok Keung.

Q. I show you Plaintiffs' Exhibit 6 for identification and ask you if you recognize that photograph. A. Oh, yes.

Q. Who is that? A. That is me.

Mr. Hertogs: I will ask that Plaintiffs' Exhibit No. 6 for identification be admitted in evidence.

The Court: It may be admitted.

The Clerk: Exhibit 6.

(The exhibit referred to was received in evidence and marked as Plaintiffs' Exhibit No. 6.)

Q. (By Mr. Hertogs): I show you Plaintiffs' Exhibit No. 1 and ask you if you recognize the person whose pictures appears thereon.

A. That is my fourth brother.

Q. What is his name? A. Kwok Foo.

Q. I show you Plaintiffs' Exhibit No. 5 and ask you if you recognize that photograph. A. Yes.

Q. Who is that? A. My third brother.

Q. I show you Plaintiffs' Exhibit 7 and ask you if you recognize the photograph on the second page. A. Yes.

Q. Who is that?

A. My brother, like this one.

Q. What is his name? A. Kwok Keung.

(Testimony of Wong Kwok Wei.)

Q. I show you Plaintiffs' Exhibit No. 8 for identification and ask you if you recognize the photograph. A. That is me.

Q. Is that your name on the outside of that document? A. Oh, yes.

Mr. Hertogs: I will ask it be admitted in evidence, your Honor. That is No. 8. [148]

The Court: It may be admitted.

The Clerk: Exhibit 8.

(The exhibit referred to was received in evidence and marked as Plaintiffs' Exhibit No. 8.)

Mr. Dooley: Just a moment, your Honor. The defendant objects to Exhibit 8, anything except the photograph.

The Court: Overruled.

Q. (By Mr. Hertogs): I show you Plaintiffs' Exhibit No. 3-C and ask you if you can recognize those people.

A. Yes, I recognize this. This is my brother, this my father.

Q. Are you pointing to the two people in the middle? A. Yes.

Q. Can you tell me who this is over on the left-hand side? A. I think my fourth brother.

Q. What is his name? A. Kwok Foo.

Q. Can you tell me who this is on the right-hand side? A. I think my third brother.

Q. What is his name? A. Kwok Keung.

Q. I show you Exhibit 3-D and ask you if you can recognize those photographs. A. Oh, yes.

Q. Who are they from left to right? Who is

(Testimony of Wong Kwok Wei.)

the person sitting? A. My mother.

Q. Who is standing up?

A. My brother.

Q. What brother? A. Third one.

Q. What is his name? A. Kwok Keung.

Q. I will show you No. 3-E and ask you if you can recognize any of the people in this photograph.

A. I recognize all of them.

Q. You have seen that photograph before?

A. Yes.

Q. I have numbered these different ones here. We will start where I have got the numbering for the person under No. 1. A. Third brother.

Q. His name? A. Kwok Keung.

Q. The one under No. 2?

A. Fourth brother.

Q. What is the name? A. Kwok Foo.

Q. The one over under No. 3? [150]

A. Second brother.

Q. His name? A. Kwok Hoy.

Q. The person under No. 4 here?

A. My sister-in-law.

Q. Your sister-in-law, and who is she married to? A. Married to this guy.

Q. What is his name? What is the name of her husband? A. Kwok Foo.

Q. Who is this child she is holding, under No. 5? A. His son.

Q. Whose son? A. My fourth brother.

Q. This person by No. 6?

A. My third brother's wife.

(Testimony of Wong Kwok Wei.)

Q. What is her name? A. Yee Ling Hun.

Q. That is her name? A. Yes.

Q. Who is she married to?

A. Kwok Keung.

Q. No. 7? A. My brother, small one.

Q. What is his name? [151] A. Kwok Jin.

Q. No. 8? A. My mother.

Q. She is holding a child marked 9.

A. Yes.

Q. Who is he?

A. My third brother's son.

Q. Your third brother's son. This person by No. 10? A. My second brother's wife.

Q. What is your second brother's name?

A. Second brother?

Q. Yes. A. Wong Kwok Hoy.

Q. She is holding a child we have marked No. 11. A. That is his son.

Q. Who are you referring to?

A. My brother, second brother.

Q. No. 12 here? A. That is me.

Mr. Hertogs: I have no further questions of this witness, your Honor.

The Court: Is your other witness here?

Mr. Hertogs: He will be back shortly. He had to go to the bank. [152]

Cross Examination

Q. (By Mr. Dooley): Your name is Mr. Wong?

A. Yes, sir.

(Testimony of Wong Kwok Wei.)

Q. Do you know the birthday of your No. 1 brother? A. The birthday?

Q. Yes. A. The year, too?

Q. The year.

The Court: The year and the date?

Mr. Dooley: Yes.

The Witness: Chinese calendar second year, 11th month and 10th day.

Mr. Dooley: May I have the American translation?

The Interpreter: December 7, 1913.

Q. (By Mr. Dooley): The birthday of your No. 2 brother? A. Just birthday?

Q. Yes.

The Court: Mr. Dooley, he is going to give you the birthday, the day and the month.

Mr. Dooley: And the year.

The Court: What you want is the date of birth. You have a birthday every year. You want the date of birth, don't you?

Mr. Dooley: The birth date. [153]

The Court: You understand, the birth date, the day of birth.

The Witness: Yes. The day of birth, ninth month and the ninth day, too.

Q. (By Mr. Dooley): And the year?

A. The third.

Mr. Dooley: May I have a translation?

The Interpreter: 27th of October, 1914.

Q. (By Mr. Dooley): And your No. 3 brother?

A. The year 11, ninth month, the third.

(Testimony of Wong Kwok Wei.)

Mr. Dooley: May I have a translation of that?

The Interpreter: October 22, 1922.

Mr. Dooley: And your No. 4 brother?

The Witness: The No. 4 brother is 12th year, 8th month, and 8th day, too.

Mr. Dooley: A translation?

The Interpreter: September 18, 1923.

Q. (By Mr. Dooley): Your No. 5 brother?

A. No. 5 brother?

Q. Yes. A. 1935, fourth month, 30th.

Q. You are No. 5, aren't you?

A. Yes, I am No. 5.

Q. What was the month and the year?

A. April 30th. That is the American date. [154]

Q. What is the Chinese date again?

A. Third month, 28th.

Q. When did you first learn your birth date, Mr. Kwok Wei?

A. What do you mean by that, sir?

Q. When did you first learn you were born CR 24-3-28? A. When I first learn it?

Q. Yes. A. I don't know, sir.

Q. You don't remember when your mother first told you your date of birth?

A. No, I don't remember, sir.

Q. Do you remember approximately when?

A. I don't know, sir.

Q. Your No. 6 brother?

A. My sixth brother, 26, first month, 10th day.

Mr. Dooley: May we have a translation on that?

The Interpreter: 20th of February, 1937.

(Testimony of Wong Kwok Wei.)

Q. (By Mr. Dooley): How much older is your No. 2 brother than you are, Mr. Wong?

A. My No. 2 brother, about 21 years.

Q. Is it necessary for you to count?

A. Oh, yes, I have to count.

Q. How much older is your No. 3 brother than you?

A. My 3 brother than I, 13 years. [155]

Q. How much older is your No. 1 brother?

A. About 22 years.

Q. He is about 22 years older than you?

A. Yes, sir.

Q. When is the first time you remember seeing your father?

A. What are you referring to, sir?

Q. When do you first recall, first remember seeing your father Wong Ho?

A. Wong Ho? When I come to America.

Q. You don't remember him before you came to America?

A. Well, I see his picture on the wall, but I don't see he personally.

Q. When is the first time you remember seeing your No. 1 brother?

A. In my laundry store in San Francisco.

Q. When was that?

A. The first day I came.

Q. That was in 1952?

A. Yes.

Q. When is the first time you remember seeing your No. 4 brother?

A. Fourth brother, 1952.

Q. When is the first time you remember seeing your No. 2 brother? [156]

A. Same year, 1952.

(Testimony of Wong Kwok Wei.)

Q. When is the first time you remember seeing your No. 6 brother?

A. In the year of my Chinese calendar 39 years.

Q. When is the first time you remember seeing your No. 3 brother? A. All the time.

Q. So the first time you saw your No. 4 brother, your No. 2 brother and your No. 1 brother was in 1952? A. Yes, sir.

Q. You had never seen them before in your life?

The Court: Well, now, Mr. Dooley——

The Witness: No——

The Court: Just a minute. Mr. Dooley, let's change that a little bit. I think the question is, you never remember seeing them, because the chances are that if he was very young he might have seen them, but he can't remember.

Mr. Dooley: That was the question.

The Court: But that is not the way you phrased it.

Mr. Dooley: I said, "When do you first remember seeing him," and he said 1952.

The Court: What is the first time? You don't remember seeing them until you came to America.

The Witness: I see the second one and the fourth one when he go back to China. [157]

The Court: I am talking about your No. 1 and your No. 4 and your No. 2. You don't remember seeing them in China?

The Witness: Yes, I remember my second one

(Testimony of Wong Kwok Wei.)

and fourth one. The first one I never seen until America.

The Court: When did you first see your No. 2 brother?

The Witness: In China.

The Court: Whereabouts?

The Witness: You mean what year?

The Court: What year and where was it?

The Witness: In my home.

The Court: In the village?

The Witness: In the village, yes.

The Court: How old were you at that time?

The Witness: Let's see. About 14 years old.

The Court: Where do you remember seeing No. 4?

The Witness: Same year. When I was 14.

The Court: In the village?

The Witness: Yes.

The Court: So you never saw your No. 1 brother in the village?

The Witness: Never.

The Court: But you saw the others?

The Witness: In the village? [158]

The Court: In the village.

The Witness: That's right.

Mr. Dooley: Your Honor, may I have the reporter read the question I asked the witness a few moments ago back?

The Court: How far do you want to go back?

Mr. Dooley: When I ask when he first remembered seeing his No. 4 and No. 2.

(Testimony of Wong Kwok Wei.)

The Court: Well, he stated he hadn't seen his No. 4 and No. 2 until he came to America in 1952. Now he says he remembers seeing them in China. It may have been he didn't understand your question, Mr. Dooley.

Mr. Dooley: It may be.

The Court: I think that is something for the court to judge.

Mr. Dooley: Yes, your Honor.

The Court: I suppose the only reason you want to have the question read back is to be sure I **am** impressed with the discrepancy. I have got the discrepancy, if it is a discrepancy.

Mr. Dooley: I wanted to make sure I asked it the way I thought I asked it. I wasn't sure.

The Witness: My point is, when you asked me before I come to America or before—I mean after I came to America or before I came to America. You didn't mention seeing. I thought you first meant when I come to America to see him and [159] that is in 1952.

Q. (By Mr. Dooley): When is the first time you remember seeing your No. 3 brother?

A. I remember him all the time, sir.

Q. You remember being in the village with your No. 3 brother? A. Yes, sir.

Q. Throughout your life? A. Yes, sir.

Q. How old were you when you first remember seeing your No. 3 brother?

A. The day I was born.

Q. You don't remember the day you were born, do you?

(Testimony of Wong Kwok Wei.)

A. Well, I live with him all the time, sir, except when he go to school and he live in the school, see.

Q. When did he go to school?

A. Oh, I don't know when, sir.

Q. You don't know when he went to school?

A. Before I was born he went to school already, see.

Q. In fact, he was in school when you first knew him?

A. When I go to school, he go to college, and that's all I knew.

Q. Was he going to school in the village?

A. In the village?

The Court: Mr. Dooley, this witness certainly can't [160] be called upon to recollect things that happened some years before he was born.

Mr. Dooley: No. I am talking about after he was born, not before he was born.

The Court: I don't know. I can't keep up with your questions.

Mr. Dooley: I am asking the witness, your Honor——

The Court: You are going too fast.

Mr. Dooley: Well, I will slow down, your Honor, because I would like to get this clear.

Q. When you first began to recognize your mother and father, was your No. 3 brother, recognize your mother, was your No. 3 brother in the village? A. When I know.

Q. Yes, was your No. 3 brother in the village at that time? A. I think so.

(Testimony of Wong Kwok Wei.)

Q. You stated your No. 3 brother went to school?

A. Yes.

Q. When did your No. 3 brother go to school?

A. You mean when?

Q. Yes. A. I don't know when.

The Court: Just a minute. I think you ought to change that. When do you remember he went to school?, because [161] he went to school before he was born.

Q. (By Mr. Dooley): When do you remember your No. 3 brother going to school?

A. Before I go to school and after I go to school, he still go to school, see.

Q. When did you start to school?

A. In 1931—I mean in Chinese calendar 31.

Q. You started in CR 31? A. Yes, sir.

Mr. Dooley: May I have that in English?

The Interpreter: 1942 or early in 1943.

Q. (By Mr. Dooley): Was your No. 3 brother in the village at that time?

A. At that time, my 3 brother?

Q. When you started to school. A. Oh, yes.

Q. How long did your No. 3 brother stay in the village after you started to school?

A. When I was in second grade, he went to school for a year, and then he come back, and then after the war he going to school.

Q. How old were you when you started to school? A. Eight years old.

Q. Now, you said after you were in the second

(Testimony of Wong Kwok Wei.)

grade, your No. 3 brother went to school for a year and then came [162] back.

A. Yes. I don't know about——

Q. Where did your No. 3 brother go to school?

A. Oh, far away from the village, sir.

Q. Do you know where he went to school?

A. I heard the name of Cho Gong, something like that.

Q. How old were you when you were in the second grade? A. Going nine years.

Q. After your brother came back, did he stay in the village? A. Yes.

Q. He never left the village again?

A. What do you mean, sir? Right now he is not in the village.

Q. He never left the village before he came to Hong Kong to come to the United States?

The Court: Mr. Dooley, are you talking about No. 3 brother?

Mr. Dooley: Yes, your Honor.

The Court: You say he never left the village. He was 13 years old when this boy was born. Now, these questions are too broad. I think you could ask this witness if he ever remembered that he left the village, but bring it within his own memory. You are asking him to testify to something he can't remember. If he testifies, it is purely hearsay unless [163] he can remember.

Mr. Dooley: I intend to say after his brother came back from this one year in school in Cho

(Testimony of Wong Kwok Wei.)

Gong, did he leave the village again before he came to the United States.

The Witness: Yes, sir.

Q. (By Mr. Dooley): Your No. 3 brother?

A. Yes.

Q. Did he? A. Yes, he did.

Q. When did he leave?

A. Oh, after the war, I mean our country's war.

Q. After the war? A. Yes.

Q. What year was that?

A. Chinese calendar 34.

Q. How old were you at the time he left the village after the war?

A. About 12 or 13 years old.

Q. You were about 12 or 13 years old?

A. Yes.

Mr. Dooley: May I have a translation of this CR 34 that he gave a few moments ago?

The Interpreter: 1945 or 1946.

Q. (By Mr. Dooley): And when he left the village after the war, how long did he stay away from the village? [164]

A. Stay away from the village? Four years, about.

Q. About four years? A. Yes.

Q. How old were you when your No. 3 brother returned to the village after staying away about four years?

A. About 15 or 16, something like that.

Q. 15 or 16?

A. Something like that.

(Testimony of Wong Kwok Wei.)

Q. In what year did your No. 3 brother return to the village after staying away about four years?

A. Chinese calendar 38.

The Interpreter: 1949 or 1950.

The Court: Mr. Dooley, it's 11:00 o'clock, and while you are looking for your next question, we will take our morning recess. We will now recess until 15 minutes after 11:00.

(Recess.)

The Court: You may proceed.

Mr. Dooley: Your Honor, the other witness is here. I can finish cross examination of the——

The Court: You are not going to take long with this one, are you?

Mr. Dooley: This particular witness, I will.

The Court: Do you want the other witness?

Mr. Hertogs: It doesn't make any difference.

The Court: Do you want this other witness to get back?

Mr. Hertogs: No. The other boy is at the store now.

The Court: Then let's complete this cross examination.

Q. (By Mr. Dooley): You testified your No. 3 brother left the village after the war and stayed about four years, is that correct?

A. Three or four years, I would say.

Q. Where did he go——

The Court: Mr. Dooley, you have asked that question. He has already given you an answer, when he left, how long he was gone, and when he re-

(Testimony of Wong Kwok Wei.)

turned. Now, let's get on, and don't ask the questions again.

Mr. Dooley: I don't believe he stated where he went.

The Court: I thought you said when.

Mr. Dooley: No, where.

The Court: Excuse me. I didn't understand.

Q. (By Mr. Dooley): Where did your No. 3 brother go? A. He go to school.

Q. Where? A. In Canton.

Q. While he was going to school in Canton, did he come [166] back to the village at any time?

A. Oh, yes, during the summer time and the end of the term.

Q. During the summer and the end of the term, did you ever go to Canton to see him in school?

A. No, sir.

Q. Do you know how far Canton is from Chung Hing Village? A. I don't know, sir.

Q. Have you ever been to Canton?

A. Once on the way to go there, not stop there. When I go to Hong Kong, the ship stopped by Canton, but I didn't go up there.

The Court: That is the only time you were in Canton?

The Witness: Yes.

Q. (By Mr. Dooley): When was the first time you ever had a picture taken, Mr. Wong?

A. In my calendar, 38.

Mr. Dooley: What would that be?

(Testimony of Wong Kwok Wei.)

The Interpreter: 1949 or 1950.

Q. (By Mr. Dooley): I show you Plaintiffs' Exhibit 6 and refer to the photograph on this exhibit and ask you if you know when that photograph was taken. A. When?

Q. Yes. [167]

A. I don't know when, sir.

Q. Do you know how old you were at the time this photograph was taken?

A. About 15 or 16.

Q. I show you Plaintiffs' Exhibit 3-E and ask you if you know when Exhibit 3-E was taken.

A. When?

Q. Yes.

A. In the Chinese calendar year 38.

Q. How old were you at the time Exhibit 3-E was taken?

A. How old? Let's see. About 14 or 15, something like that.

Q. Were you the same age at the time Exhibit 3-E was taken as——

A. No, not at the same time, sir.

The Court: Just a minute now, Mr. Dooley, this record may have to be read by the Circuit and you ought to finish a question before the witness answers. So you better wait until after the question is complete. Now go back and complete your question.

Q. (By Mr. Dooley): Were you the same age at the time Exhibit 3-E was taken as you were at

(Testimony of Wong Kwok Wei.)

the time the photograph on Exhibit 6 was taken?

A. Not at the same time, sir.

Q. How much older were you at the time that Exhibit 6 [168] was taken?

A. Either one or two years.

Q. Just a moment. How much older were you at the time the photograph on Exhibit 6 was taken than you were at the time the photograph on Exhibit 3-E was taken?

A. One or two years older.

Q. I show you Plaintiffs' Exhibit 3-D. Do you know when that photograph was taken?

A. No, sir.

Q. Do you know where that photograph was taken?

A. I think it is in front of the public building. I am not sure, sir.

Q. In what city? A. In my village.

Q. Is Exhibit 3-E the first photograph you ever appeared on in your life?

A. The first one, yes.

Q. I show you Plaintiffs' Exhibit 3-C. You identified the person, this person on the left-hand side as—who is that? A. Wong Kwok Foo.

Q. How did you recognize that picture?

A. His face.

Q. That looks like Wong Kwok Foo when you first saw him? [169] A. Yes.

Q. That was in——

A. I don't know, sir.

(Testimony of Wong Kwok Wei.)

Q. When did you testify you first saw Wong Kwok Foo? A. In my village.

Q. When?

A. In the Chinese calendar 38—36.

Q. You could tell that this was Wong Kwok Foo from the picture? A. Yes, his face there.

Q. Now, while your brother, No. 3 brother, Wong Kwok Keung, was going to school in Canton City, how were you and your mother supported?

A. By my father.

Q. Your father would send money to you?

A. Not exactly. Send it to my mother, I think.

Q. Your father sent money to your mother?

A. Yes, I think.

Q. You don't know? A. Yes.

Q. You know that your father sent money to your mother? A. Yes, I know.

Q. You saw some of the money that was sent to your mother? [170]

A. What do you mean sir?

Q. Did you see the letters in which your father sent money to your mother? A. No.

Q. Did your father ever write to you?

A. No.

Q. You never received a letter from your father in your life? A. Never, sir.

Q. Did you ever write your father a letter?

A. Once or twice, yes.

Q. Did you ever receive any letters from any of your brothers in the United States during the

(Testimony of Wong Kwok Wei.)

course of your life? A. Letters? No.

Q. Did you ever write to any of your brothers in the United States while you were in China or in Hong Kong? A. No.

Q. Did you ever have a photograph made with any of your brothers except this photograph that is Exhibit 3-E? A. I don't think so, sir.

Q. Is your No. 1 brother married?

A. Yes, last year, but I think he separated from his wife.

Q. Do you know when your No. 1 brother was married? A. Last year. [171]

Q. Is your No. 2 brother married?

A. No. 2 brother is married Chinese calendar 37. The Interpreter: 1948 or 1949.

Q. (By Mr. Dooley): Do you know when in the Chinese calendar 37 your No. 2 brother married? A. When?

Q. The month and the day?

A. I think it is along in May, something like that, May, June.

Q. Where did your No. 2 brother marry?

A. In Hong Kong.

Q. Is your No. 3 brother married?

A. Yes.

Q. When did your No. 3 brother marry?

A. When? Chinese calendar 32.

The Interpreter: 1943 or 1944.

Q. (By Mr. Dooley): Where did your No. 3 brother marry? A. In my own village.

(Testimony of Wong Kwok Wei.)

Q. Is your No. 4 brother married?

A. Yes.

Q. Where did your No. 4 brother marry?

A. In my own village.

Q. When did he marry?

A. Chinese calendar 36. [172]

Mr. Dooley: What would that be?

The Interpreter: That would be 1947 or 1948.

Q. (By Mr. Dooley): You stated your No. 4 brother and your No. 2 brother came back to the village in CR 37? A. 36, sir.

Q. In 36. Who came back to the village first? Your No. 2 or your No. 4? A. No. 4, sir.

Q. How much later than No. 4 did your No. 2 come back? A. One or two months, sir.

Q. How old were you when your No. 4 brother came back to the village?

A. How old am I? About 14 or 15, something like that.

Q. Is that Chinese calendar or American calendar?

A. I said 14 or 15 years old. You said how old am I? Didn't you ask me that, or what year? You asked me for my age.

The Court: Were you giving your age in the Chinese calendar or the the American?

The Witness: Chinese calendar, sir.

Q. (By Mr. Dooley): During the war did the Japanese come to your village?

(Testimony of Wong Kwok Wei.)

A. You mean in or come to? What do you mean, sir?

Q. Did you see any Japanese soldiers during the war? A. No. [173]

Q. Did you hear about any Japanese soldiers being close to your village during the war?

A. Yes.

Q. Was your No. 3 brother married during the war? A. Yes.

Q. From the time that you first remember until the time that you came to Hong Kong to come to the United States, how many years all together did your No. 3 brother spend away from the village in school? A. Is that away from the village?

Q. Yes.

A. Gee, I can't count it, sir. Sometimes he go to school and at the end of the term he come back home, see. I don't know.

Q. Did you go to school? A. Yes, sir.

Q. While in the village? A. Yes.

Q. Did you go to school inside the village?

A. No, outside the village.

Q. What was the name of the school you attended? A. Chung Hong.

Q. How far was it from Chung Hing Village?

A. From my own village, isn't it?

Q. How far was the school that you attended from [174] Chung Hing Village?

A. Oh, more than two miles, sir, I mean Chinese miles.

(Testimony of Wong Kwok Wei.)

The Court: Chinese miles?

The Witness: Yes.

The Court: How long did it take you to go from your home to the school?

The Witness: Sometimes when—we don't have a watch like today. We never count the time.

The Court: Did you walk?

The Witness: Oh, yes, we walked.

The Court: Two Chinese miles?

The Witness: Yes. More than two Chinese miles.

Q. (By Mr. Dooley): Does your father have any brothers? A. Pardon me?

Q. Does your father, Wong Ho, have any brothers? A. Oh, yes.

Q. How many brothers does he have?

A. Four.

Q. What are their names?

A. What do you mean, sir?

Q. What are the names of your father's brothers? A. Wong Soo. Just one or all of them, sir?

Q. That is the first one? A. Yes.

Q. Now, the second one. [175]

A. The one I named is the second one. Wong Kooie is the big brother. Wong Soo is the second one. Kon, K-o-n, is the third one, and my father is the fourth one.

Q. Have you ever seen Wong Kooie?

A. I have never seen him, no.

Q. Have you ever seen Wong Soo?

A. No.

(Testimony of Wong Kwok Wei.)

Q. Have you ever seen Wong Kon, the third one? A. No.

Q. Now, how many houses were there in the village that you grew up in?

A. Can I have a paper and a pencil?

The Court: Give him a piece of paper and let him draw the village like he did the other one.

The Witness: (Complying.) Around 30, something like that. Around 30.

The Court: How many rows were in the village? Was the village divided into rows?

The Witness: Yes.

The Court: How many rows were there?

The Witness: I think approximately eight or nine.

The Court: Did the village have a head?

The Witness: What do you mean, sir?

The Court: Head of the village.

The Witness: We say the left side is the head of [176] the village.

The Court: The left side?

The Witness: Yes.

The Court: Starting with the head of the village, what row was your family home on?

The Witness: Well, we count the first one is the fourth row. First is only one building that we don't count the building. It is third row.

The Court: What kind of building was that?

The Witness: A house.

The Court: What did they use it for?

(Testimony of Wong Kwok Wei.)

The Witness: For living.

The Court: Do you know who lived in it?

The Witness: Yes.

The Court: Who?

The Witness: Chin Ock.

The Court: Was that at the head of the village?

The Witness: Oh, yes. We say that it the head of the village.

The Court: And there was one house in the first row?

The Witness: Yes.

The Court: And you were in the fourth row?

The Witness: Yes.

The Court: What house in the fourth row were you? [177]

The Witness: What do you mean, what house?

The Court: How many houses were in the fourth row?

The Witness: I think there is five.

The Court: Looking toward the head, was your house one, two, three, four, or five?

The Witness: The last one.

Q. (By Mr. Dooley): In which direction did your village face?

A. I think the west, near the west side.

Q. Now, when was the last time you saw your No. 6 brother?

A. The last time? Chinese calendar 39.

Q. Where was he at that time?

A. In China.

(Testimony of Wong Kwok Wei.)

Q. And where in China?

A. In my village.

Q. How old were you the last time you saw your No. 6 brother? A. 16, I think, 16 or 17.

Q. You testified, I believe, your mother is now in Hong Kong? A. Yes.

Q. When did your mother come to Hong Kong?

A. In Chinese calendar it is 43. [178]

The Interpreter: 1954 to early 1955.

Q. (By Mr. Dooley): Do you know who your No. 6 brother is living with in the village now?

A. Right now?

Q. Yes. A. I don't know, sir.

Q. When is the last time you saw your mother?

A. Chinese calendar 39.

The Court: Where did you see your mother?

The Witness: In my own village, sir.

The Court: She didn't go down to Hong Kong with you when you came to the United States?

The Witness: No.

The Court: Then when you left the village to come to the United States, your mother and your No. 6 brother were in the village?

The Witness: Yes.

The Court: That is the last time you saw them?

The Witness: Yes, sir.

Q. (By Mr. Dooley): Did your No. 2 brother and your No. 4 brother leave the village when they came back in 1947?

Mr. Hertogs: 1949, your Honor.

(Testimony of Wong Kwok Wei.)

Q. (By Mr. Dooley): Your No. 2 and No. 4 brothers came back to the village in 1947?

A. Well, will you say the Chinese calendar, sir?

Q. Did your No. 2 and No. 4 brother come back to the village in CR 36? A. Yes, sir.

Q. When did they leave the village?

The Court: After that date?

Q. (By Mr. Dooley): After that date.

A. You mean leave the village to America? What do you mean by that, sir?

Q. When did they leave the village after that time to come back to the United States?

A. I think they came back, the Chinese calendar 38.

Q. Did they leave the village to go to come back to the United States? A. Yes.

Q. What time of the day?

A. During the morning time, morning, afternoon, something, I don't know.

Q. At the time they left the village to come back to the United States, was your No. 3 brother in the village?

A. Yes. He came with them to Hong Kong, I think. My third brother go with my second and fourth brother to Hong Kong, I think.

Q. Was your No. 6 brother in the village at that time? A. Yes.

Q. Were you attending school at the time that your [180] No. 2 and your No. 4 brother left in 1949 to come back to the United States?

(Testimony of Wong Kwok Wei.)

A. No, sir.

Q. How long did you attend school in the village? A. For seven years.

The Court: The evidence, Mr. Dooley, is that he did not attend school in the village.

Mr. Dooley: I'm sorry.

The Court: The evidence is he attended school outside the village.

Mr. Dooley: That is true.

The Court: So your question assumes something that is not in the record.

Q. (By Mr. Dooley): How long did you attend school outside the village?

A. Seven years.

Q. When did you stop attending school outside the village? A. Chinese calendar 37.

Q. I show you Plaintiffs' Exhibit 8 and refer you to the photograph on this exhibit and ask you, do you know when that photograph was taken?

A. You mean what year?

Q. What year that photograph was taken.

A. I think Chinese calendar 40. [181]

Q. How old were you when the photograph appearing on Exhibit 8 was taken?

A. 16 or 17 years old.

Q. And where was the photograph on Exhibit 8 taken? A. In some kind of——

(Witness addressing interpreter.)

The Interpreter: It is a place where all people obtain their identity cards, took their pictures in Hong Kong.

Mr. Dooley: No further questions.

Your Honor, I have a deposition that was taken pursuant to notice and I would like to offer it in evidence so that the court can examine it.

Mr. Hertogs: I object, your Honor, very definitely, to the deposition going in evidence. This is a deposition taken in Hong Kong, supposed to be a deposition of an expert witness, and I felt that if the government desires to put on testimony of an expert witness, there are plenty of them available right in this locality. In addition and in opposition to the offer, I would direct the court's attention to the fact that counsel stipulated in 1952 as part of the stipulation, as part of the official file in this court, that they could make any examinations they so desired at any time and place and he would voluntarily appear for any examinations that they desired to take. I thought that they would take them, but we can find no record where they [182] have taken them. They have no results available. I feel that if they desire to have them taken, they could have taken them here. They could find plenty of expert witnesses right here in Los Angeles.

In addition to that, there are two or three questions directed to this man as to whether or not he had ever specialized in the subject of radiology, if he had ever taken any courses, and his answers were no.

"You don't regard yourself as a specialist in radiology then?"

"No."

I don't think testimony of that type of witness should be offered.

The Court: Doesn't that go to the weight rather than the admissibility?

Mr. Hertogs: I don't think so, because it goes to the question of an expert witness, depriving the counsel of the right of cross examination.

The Court: Was this taken on notice?

Mr. Hertogs: Yes.

The Court: You could have been there. It might have been expensive, but you could have been there.

Mr. Hertogs: The government has a little more money than my clients have, your Honor. That is very expensive. [183]

If it went to testimony pertaining to relatives, it might be permissible to take the deposition in Hong Kong rather than bring witnesses to the United States, but where you are offering the testimony of an expert witness, and we have plenty of expert witnesses available here, I can't see that the government should take the testimony of a man located 3,000 miles away from here where the case is to be heard.

The Court: You have a chance to have an expert witness to testify, if you wish.

Mr. Dooley, I suppose these are the X-rays upon which the opinion was given?

Mr. Dooley: Yes, your Honor.

The Court: We have the X-rays here then. I don't know whether it is the elbow or the knee joint. We have an X-ray of the elbow and an X-ray

of the knee joint, and an X-ray of the hands.

Mr. Dooley: Yes, your Honor. The doctor from the Public Health Service will be willing to come down this afternoon and put those on if the court wants to look at them.

The Court: I am not an expert. My looking at them wouldn't do any good. I could look at the X-rays by the hundreds and I might not come to the conclusion of what they mean.

Mr. Dooley: He also has a book showing charts up there that he can point out to the court [184] just how the age limits are and how this falls within age limits.

The Court: I think the question goes to the question of the weight of the evidence rather than the admissibility.

Mr. Hertogs: I think it goes to the fact that there is no foundation laid for its admissibility. It is the testimony of an expert witness and no foundation has been laid.

The Court: It is up to me to decide the qualifications, isn't it? The objection is overruled. It may be admitted in evidence.

Mr. Dooley: Thank you, your Honor.

The Clerk: Exhibit C.

(The document referred to was received in evidence and marked as Defendant's Exhibit C.)

Mr. Dooley: That's all I have of this witness.

The Court: You have the cross examination of one more witness, don't you?

Mr. Dooley: I think I have two more, and Mr. Hertogs has another.

Mr. Hertogs: I have one more witness, your Honor.

The Court: You have one more witness?

Mr. Hertogs: Yes. I think Mr. Dooley has the cross examination of Wong Kwok Keung.

The Court: I don't want to keep you down here over the week-end. [185]

Mr. Hertogs: It may be necessary for me to make arrangements to see how fast I can get an expert witness.

The Court: There is a doctor out at the General Hospital who has testified in these cases before.

Mr. Hertogs: Might I have his name?

The Court: You can't get it from me. Mr. Dooley can tell you his name.

Mr. Dooley: I don't have it readily available because I believe it was in Mr. Davis' case. I don't recall his name.

The Court: He has testified in some of these cases. He is not as certain as to age, according to his examination, as these other doctors are. That is, he hasn't been certain so far.

Mr. Hertogs: That is the normal attitude of the expert witness. There is quite a variation. I will be prepared to present an expert witness at the conclusion of this testimony.

The Court: I suppose we better recess until 2:00 o'clock. You might be able to get hold of this doctor during the noon hour.

Mr. Hertogs: I will.

The Court: I can't tell you his name. Maybe Mrs. Smith can tell you. He has appeared in two other cases.

Court will now stand in recess until 2:00 o'clock.

Afternoon Session

The Court: You may proceed.

Mr. Hertogs: As plaintiffs' next witness we would like to call Wong Kwok Hoy.

The Clerk: Do you speak English?

Mr. Wong: Yes.

WONG KWOK HOY

called as a witness by and on behalf of the plaintiffs, having been first duly sworn, was examined and testified as follows:

The Clerk: Will you state your name?

The Witness: Wong Kwok Hoy.

Direct Examination

Q. (By Mr. Hertogs): Where do you live, Mr. Wong? A. 206 West 104th.

Q. You will have to talk louder.

A. 206 West 104.

Q. Is that in Los Angeles? A. Yes.

Q. Do you operate a business in Los Angeles?

A. Yes. [187]

Q. Where is that business located?

A. 10420 South Main Street, Los Angeles.

Q. Where were you born, Mr. Wong?

A. In China.

Q. When did you come to the United States?

(Testimony of Wong Kwok Hoy.)

A. In 1933.

Q. At the time of your arrival were you issued a certificate of identity by the Immigration Service?

A. Yes.

Q. Do you have that with you?

A. Yes. (Handing document to Mr. Hertogs.)

Mr. Hertogs: I will ask that the certificate of identity No. 69385 issued by the Immigration Service at Seattle, Washington, on July 20, 1933, be marked Plaintiffs' Exhibit No. 11 for identification.

The Court: It may be marked for identification.

The Clerk: Exhibit 11 for identification.

(The document referred to was marked as Plaintiffs' Exhibit No. 11 for identification.)

Q. (By Mr. Hertogs): I will show you Plaintiffs' Exhibit No. 11 for identification and ask you if you recognize that photograph. A. Yes.

Q. Who is that? A. That is me. [188]

Mr. Hertogs: I will ask it be admitted in evidence, your Honor.

The Court: It may be admitted.

The Clerk: Exhibit 11.

(The exhibit referred to was received in evidence and marked as Plaintiffs' Exhibit No. 11.)

Q. (By Mr. Hertogs): What is the name of your father? A. Wong Ho.

Q. Where does your father live at the present time?

A. With my brother at 3424 Edgehill.

Q. Is that Los Angeles?

(Testimony of Wong Kwok Hoy.)

A. Yes, Los Angeles.

Q. Is he the person that was in the court room earlier?

A. Yes, yesterday.

Q. Is he in the witness room right now?

A. No.

Q. I will show you Plaintiffs' Exhibit No. 4 and ask you if you recognize the picture of the person thereon. Do you recognize that picture?

A. Yes.

Q. Who is that? A. My father.

Q. What is the name of your mother?

A. My mother? [189]

Q. Yes. A. Yee Fong Yee.

Q. Where is your mother at the present time?

A. In Hong Kong.

Q. Has she ever been to the United States?

A. No.

Q. How many brothers and sisters do you have?

A. I have got five brothers.

Q. Is that including yourself? A. No.

Q. What is the name of your first brother?

A. Wong Loon Kwong.

Q. How old is he? A. He is 44.

Q. Where does he live at the present time?

A. In Seattle, Washington.

Q. What is the name of your second brother?

A. My second brother is Wong Kwok Keung.

Q. Where is Wong Kwok Keung at the present time?

A. He is right in the witness room.

Q. Where was he born? A. Where?

(Testimony of Wong Kwok Hoy.)

Q. Where. A. In China.

Q. In what village? [190]

A. Chung Hing.

Q. Where were you born?

A. Same place.

Q. What is the date of birth of your third brother, Kwok Keung?

A. Date of birth. I think it is September 3rd. I think.

Q. Is that in Chinese or American?

A. In Chinese.

Q. What year? Do you know the Chinese year?

A. I think it is—let's see. 11th year.

Mr. Hertogs: May we have it in English?

The Interpreter: October 22, 1922.

Q. (By Mr. Hertogs): How much older are you than your third brother?

A. Well, I don't know. Let's see.

Q. Approximately.

A. I think about eight or nine years, something like that.

Q. What is the name of your fourth brother?

A. Wong Kwok Foo.

Q. Where does Wong Kwok Foo live at the present time? A. He live at 3424 Edgehill.

Q. Is that in Los Angeles?

A. Los Angeles. [191]

Q. Where was he born?

A. In China, same place I was.

Q. How old is he? A. He is 34, I think.

Q. Do you know the date of his birth?

(Testimony of Wong Kwok Hoy.)

A. I don't think I remember that.

Q. What is the name of your fifth brother?

A. Kwok Wei.

Q. Where is Kwok Wei at the present time?

A. In the witness room there.

Q. Where was he born?

A. Same, Chung Hing Village.

Q. Do you know the date of his birth?

A. I don't know.

Q. How old is he in years?

A. He is about 22.

Q. What is the name of your sixth brother?

A. Kwok Jin.

Q. Where is he at the present time?

A. He is in China.

Q. Has he ever been to the United States?

A. No.

Q. Were you living in China at the time Kwok Keung was born, your third brother?

A. Yes. [192]

Q. Is the person who is out in the witness room and who is known as Kwok Keung the boy who was born in your home in China? A. Yes.

Q. I will show you Plaintiff's Exhibit No. 1 and ask you if you recognize the picture of this person.

A. Yes, Kwok Foo.

Q. Who is Kwok Foo?

A. My fourth brother.

Q. I will show you Plaintiffs' No. 3-A and ask you if you can recognize the picture of the person

(Testimony of Wong Kwok Hoy.)

on the reverse side thereof. Do you know that person? A. Yes.

Q. Who is that? A. Kwok Wei.

Q. Who is Kwok Wei? A. My brother.

Q. I will show you Plaintiffs' Exhibit 3-B and ask you if you can recognize the photograph on the reverse side thereof. A. Kwok Keung.

Q. Who is Kwok Keung? A. My brother.

Q. I will show you Plaintiffs' Exhibit No. 5 and ask you if you recognize that photograph. [193]

A. Kwok Keung.

Q. Who is Kwok Keung? A. My brother.

Q. I show you Plaintiffs' Exhibit No. 6 and ask you if you recognize that photograph.

A. Kwok Wei, my brother.

Q. I show you Plaintiffs' Exhibit No. 7 and ask you if you recognize the photograph on page 2 thereof. A. Kwok Keung.

Q. Kwok Keung. I show you No. 8 and ask you if you recognize that photograph.

A. Kwok Wei.

Q. I show you Plaintiffs' Exhibit No. 3-C and ask you if you recognize any of the people there. Do you recognize any of those persons?

A. Yes.

Q. Who are they? Do you know this person on the left-hand side in the white shirt?

A. That is Kwok Foo.

Q. Who is Kwok Foo? A. My brother.

Q. Who is the person in the back, in the middle back here? A. My father.

(Testimony of Wong Kwok Hoy.)

Q. What is his name? [194]

A. Wong Ho.

Q. Who is the person in the front?

A. My mother.

Q. Who is the person on the right-hand side in the white shirt? A. Kwok Keung.

Q. Who is Kwok Keung? A. My brother.

Q. I will show you Plaintiffs' Exhibit No. 3-E and ask you if you have seen that picture before.

A. Yes.

Q. Do you know any of the people?

A. Yes.

Q. You notice I have placed little numbers over these various people in the photograph. We will start with where I call them. Do you know who this is under No. 1? A. Kwok Keung.

Q. Who is under No. 2? A. Kwok Foo.

Q. Who is under No. 3?

A. That is me, Kwok Hoy.

Q. Who is under No. 4?

A. That is my sister-in-law.

Q. Whose wife is that?

A. Kwok Foo's wife. [195]

Q. The little child he is holding, No. 5, who is that? A. That is her boy, her son.

Q. No. 6 over here. A. My sister-in-law.

Q. Who is her husband?

A. Kwok Keung.

Q. No. 7?

A. That is my younger brother.

Q. What is his name? A. Kwok Jin.

(Testimony of Wong Kwok Hoy.)

Q. This person under the No. 8?

A. My mother.

Q. No. 9 is a little child she is holding.

A. That is Sol Bing.

Q. Who is that? A. Kwok Keung's son.

Q. Who is No. 10? A. My wife.

Q. Who is No. 11? A. My son.

Q. Who is this over here, the last one on the right, No. 12? A. Kwok Wei.

Q. I show you Plaintiffs' Exhibit No. 2 for identification [196] and ask you if you can recognize the first photograph contained in that file. Do you know who that is? A. That is Kwok Foo.

Q. I will show you Plaintiffs' Exhibit No. 9 for identification and ask you if you can recognize the first photograph contained in that file.

A. That is me.

Q. I show you Plaintiffs' No. 10 for identification and ask you if you can recognize the first photograph contained in that file.

A. That is my father.

Q. What is his name? A. Wong Ho.

Q. Is your father also the father of the boy who was in the witness room known as Wong Kwok Keung? A. Yes.

Q. Is his mother the same mother as your mother? A. Yes.

Q. Is your father also the father of the boy who was in the witness room known as Wong Kwok Wei? A. Yes.

Q. Is your mother also the mother of that boy?

(Testimony of Wong Kwok Hoy.)

A. Yes.

Mr. Hertogs: I have no further questions of this witness, your Honor. [197]

The Court: Mr. Dooley, do you want to cross examine this witness?

Mr. Dooley: I will cross examine this witness while he is on the stand, your Honor.

The Court: All right.

Cross Examination

Q. (By Mr. Dooley): You weren't in China when Kwok Wei was born, were you, Mr. Wong?

A. No. I was in the United States.

Q. How old was Kwok Wei when you first saw him?

A. Well, when I go back to China in 1947 is the first time I saw him.

Q. How old was Kwok Wei the first time you saw him?

A. I don't know. He is 22 right now. He must have been 12 years old. Right now he is 22. The first time I saw him was 1947.

Q. You got that——

A. I just checked it. The first time I saw him was in 1947 when I went back to China there.

Q. At the time that you first saw Kwok Wei, Kwok Jin was taller than he?

A. Yes, a little bit taller than Kwok Wei.

Q. You say that you figured out he was 12 years old by [198] subtracting——

A. Yes, that is the way I figured it out.

(Testimony of Wong Kwok Hoy.)

Q. How did you figure it out while you were using the pencil there?

A. With my pencil here. At the present time he is 22. I subtract the years passing and then come to 12. That is the way I figure it out.

Q. That was the first time you had ever seen Kwok Wei—I'm sorry. You have already testified to that. A. Yes, that is the first time.

Q. When was the first time you saw the picture of Kwok Wei? A. Kwok Wei?

Q. Yes. A. I never see his picture.

Q. You have never seen a picture of Kwok Wei?

A. No.

Q. While you were in the United States and before you went back to China in 1947, did you receive any letters from Kwok Wei? A. No.

Q. Did you write Kwok Wei any letters?

A. No.

Q. I show you Plaintiffs' Exhibit 3-E and ask you when that photograph was taken? [199]

A. Oh, I think it is 1949, '49, yes. It is a picture taken in 1949.

Q. You are not sure it was taken in 1949?

A. I think it was in 1949, because this picture was taken a couple of months before we left to come back to the United States.

Q. How old was Kwok Wei at the time that picture was taken? A. 15 years old, I think.

Q. I show you Plaintiffs' Exhibit 3-C and ask you if you know when that photograph was taken.

A. This?

(Testimony of Wong Kwok Hoy.)

Q. Yes.

A. I don't know when that was taken. This is the first time I seen it.

Q. I show you Plaintiffs' Exhibit 8 and refer you to the photograph on that exhibit and ask you if you know when that photograph was taken.

A. I don't know.

Q. I show you Plaintiffs' Exhibit 7 and refer you to the photograph on that exhibit and ask you if you know when that photograph was taken.

A. I don't know.

Q. I show you Plaintiffs' Exhibit 3-B and refer you to the photograph on the reverse side and ask you if you know [200] when that photograph was taken.

A. I don't know.

Q. I show you Plaintiffs' Exhibit 3-A and refer you to the photograph on that exhibit and ask you if you know when that was taken.

A. I don't know.

Q. I refer you to Plaintiffs' Exhibit 6 and to the photograph thereon and ask you if you know when that photograph was taken.

A. I don't know.

Q. I refer you to Plaintiffs' Exhibit 5 and to the photograph appearing thereon and ask you if you know when that photograph was taken.

A. I don't know.

Q. I refer you to Plaintiffs' Exhibit 3-D and to the photograph appearing thereon and ask you if you know when that photograph was taken.

A. I don't know when it was taken.

(Testimony of Wong Kwok Hoy.)

Q. When you went back to China in 1947, which of your brothers were in the village at that time?

A. You mean when I first got home?

Q. When you first walked in the village in 1947, name the brothers, your brothers that were in the village.

A. They not home, they go to school when I get home.

Q. None of them were in the village? [201]

A. No, except Kwok Foo. He go down to Chung Hong.

Q. When you walked in the village, the only person in the village was Kwok Foo?

A. He was with me all the way from Chung Hong back to the village. That is a little south, about a mile from the village.

Q. You and Kwok Foo came into the village at the same time? A. Yes.

Q. And when you walked into the village, none of your other brothers were in the village?

A. No, just me and Foo.

Q. What did Foo do then?

A. Well, he was with me all the way from there, come back home all together at the same time.

Q. How long was it after you reached the village before you saw any of your brothers in 1947?

A. Well, I would say afternoon about 4:00, I think about 4:00 or 5:00 o'clock, and then both young brothers, they came back from the school.

Q. What brothers came back from the school about 4:00 or 5:00 o'clock? A. What?

(Testimony of Wong Kwok Hoy.)

Q. Which of your brothers came back from school about 4:00 or 5:00 o'clock. [202]

A. Both came back at the same time.

Q. When you refer to both——

A. Kwok Wei and Kwok Jin.

Q. Kwok Wei? A. Yes.

Q. And Kwok Jin? A. Yes.

Q. What school were they going to?

A. Oh, Chung Hong School.

Q. Where is Chung Hong School located?

A. Well, it is about two miles, I mean Chinese miles, two lis, something like that, from our village.

Q. How long was it after you came back to the village in 1947 that you saw Kwok Keung?

A. You mean when I got home, how long I see him?

Q. How long was it before you saw him?

A. Kwok Keung, he was in Canton attending the university there. I saw him in Kwang Tung before I come home.

Q. You saw him where?

A. In Canton City.

Q. Did you ever see Kwok Keung in the village during your trip to China between 1947 and 1949?

A. You mean all of this time in those years?

Q. Yes. A. Yes. [203]

Q. How long was it after you reached the village in 1947 that you saw your No. 3 brother, Kwok Keung, in the village?

A. I think it was in the summer, the school holiday when they come home.

(Testimony of Wong Kwok Hoy.)

Q. After he came home during summer, did he go back to school?

A. Yes, go back after the summer vacation is over.

Q. On what date was your No. 1 brother born?

A. He was born in 1913. I don't remember the birthday, but in 1913.

Q. Do you remember your birth date?

A. Yes.

Q. What is your birth date?

A. September 9, I mean Chinese date, 1914.

Q. And the CR is 3/9/9? A. Yes, CR.

Q. Do you find your birth date easy to remember with the two nines together?

A. What do you mean?

Q. Do you find your birth date easy to remember with the two nines?

The Court: That is arguing with the witness and asking for a conclusion.

Mr. Dooley: I just asked him for his state of mind, [204] your Honor. I withdraw the question.

Q. Your No. 4 brother, do you remember his birth date?

A. He was born in August. I have forgotten the date.

Q. Is it CR 12-8-8?

A. I think so. It was August. I don't know the date exactly, the day.

Q. Now, you weren't in the village when Wong Kwok Jin was born, were you?

(Testimony of Wong Kwok Hoy.)

A. No. I was in the United States when they were both born.

Q. You weren't in the village when Wong Kwok Wei was born? A. No.

Q. How old was Wong Kwok Foo when you first came to the United States?

A. When I first come to the United States, oh, he was probably around 11 or 12. I don't remember.

Q. How old was Wong Loon Kwong, your No. 1 brother, when you first came to the United States?

A. Let's see. I come to the United States in 1920. He was one year older than me. He must be 21.

Mr. Dooley: No further questions of this witness, your Honor.

Mr. Hertogs: I have one question. [205]

Redirect Examination

Q. (By Mr. Hertogs): At the time you returned home in 1947, Mr. Wong, was this boy who was in the witness room here, and who is known as Wong Kwok Wei, living in the home of your mother? Do you understand the question?

At the time you returned to China in 1947, was Wong Kwok Wei, the boy who was in the witness room, living with your mother?

A. No. They both move out of the house and they go in the little house in the second row there. They moved out before I come home.

Q. Did your mother identify this boy as her child? A. Yes.

(Testimony of Wong Kwok Hoy.)

Q. You will have to speak up. A. Yes.

Q. Did Wong Kwok Wei call your mother mother? A. Yes.

Mr. Hertogs: I haven't any further questions of this witness, your Honor.

Mr. Dooley: I have.

Recross Examination

Q. (By Mr. Dooley): You say both Wong Kwok Wei and Wong Kwok Keung had [206] moved out of the house before you got home in 1947? A. Not Wong Kwok Keung.

Q. Wong Kwok Wei?

A. Wong Kwok Wei.

Q. And Wong Kwok Jin? A. Yes.

Q. Where had they moved to?

A. Well, the next row of houses, the public house there, the second one from the first house—not a house. It is a sort of a public place, you know.

Q. To the public place? A. Yes.

The Interpreter: The school.

The Witness: No, not the school.

Q. (By Mr. Dooley): Not the school?

A. Community house.

Q. They were living in the community house?

A. Yes.

Q. And they slept at the community house?

A. Yes, if that is called a community house. Well, my mother figured out we come back and to make room for us, so my mother fixed the two extra rooms in the hall, in the living room.

(Testimony of Wong Kwok Hoy.)

Q. What is that again?

A. My mother live in one room, and Kwok Keung's wife [207] living in the other room, see.

Q. And Wong Kwok Wei and Wong Kwok Jin lived in the community house? A. Yes.

Q. How far was the community house from your house in the village?

A. Not too far. Just a couple, three doors away.

Q. All while you were in China, Wong Kwok Wei and Wong Kwok Jin——

A. They slept there.

Q. They slept in the community house?

A. Yes.

Q. How many rows were there in Chung Hing Village?

A. How many rows? I think it is nine, about nine.

Q. In what row was your house, Mr. Wong?

A. Fourth row.

Q. In what row was the community house?

A. The second row.

Mr. Dooley: No further questions.

Redirect Examination

Q. (By Mr. Hertogs): Did Wong Kwok Jin and Wong Kwok Wei take their meals in your home? A. Yes. [208]

Q. Did you and your brother Kwok Foo return to China together in 1947? Did you go back to China together?

A. No. We go back at a separate time.

(Testimony of Wong Kwok Hoy.)

Q. Who went first?

A. Kwok Foo went first.

Q. About how long before you went to China?

A. I would say a couple of months, two months.

Mr. Hertogs: I haven't any further questions.

The Court: I have a question or two. Are you the No. 2 brother?

The Witness: Yes, that's right.

The Court: On Exhibit 3-E, where are you?

The Witness: This one here.

The Court: Under figure 3?

The Witness: Yes.

The Court: When was this picture taken?

The Witness: It was 1949.

The Court: Are you sure about that?

The Witness: I think so.

The Court: Well, now, who is the one on the figure 12?

The Witness: Kwok Wei.

The Court: How old was he then?

The Witness: He was 15.

The Court: 15? [209]

The Witness: 15. I think he was 15.

The Court: Did you ever see Exhibit 3-C before?

The Witness: No, I never saw it.

The Court: You never saw it.

Mr. Dooley, have you got some other questions? You said you had some questions.

Mr. Dooley: I have one or two.

(Testimony of Wong Kwok Hoy.)

Recross Examination

Q. (By Mr. Dooley): When you left the village in 1949, did anyone go along with you?

A. You mean on my way back to the United States?

Q. Yes. A. Yes.

Q. Who went with you? A. Kwok Keung.

Q. Did anyone else go with you?

A. My brothers, Kwok Foo, the three of us.

Mr. Dooley: No further questions, your Honor.

Mr. Hertogs: No further questions, your Honor.

The Court: May this witness be excused?

Mr. Dooley: Yes, your Honor.

(Witness excused.) [210]

Mr. Dooley: The doctor is going to look at the X-rays here and he wants to take the X-rays. He said it would be the same as on the other case. He said the same procedure as in the other case.

The Court: All right.

WONG HO

recalled as a witness herein by and on behalf of the plaintiffs, having been previously duly sworn, was examined and testified further, through the interpreter, as follows:

Cross Examination

Q. (By Mr. Dooley): How old are you, Mr. Wong? A. 72.

Q. How old is your wife? A. 63.

Q. What date were you born?

(Testimony of Wong Ho.)

A. KS 11-8-13.

Q. And in what village were you born?

A. San Francisco.

Q. Where was your wife born?

A. In China.

Q. Where in China?

A. Gap Gang Lung Village, Toy Shan, China, Canton.

Q. You first went back to China in 1912, did you not? [211]

A. The first year of the Republic of China, yes, 1912.

Q. I don't believe we got a translation of KS 11-8-15.

The Interpreter: 23rd of September, 1885.

Q. (By Mr. Dooley): When you went back to China in 1912, you were 27 years of age, is that true? A. Chinese 28.

Q. And during your trip to China between 1912 and 1914, your No. 1 son was born, is that true?

A. You mean No. 1 son?

Q. Yes. A. Two were born.

Q. Were you present at the birth of both No. 1 and No. 2?

A. When the first one came, I was at home. When the second one came I was on my way back.

Q. Then you went back to China in 1921, did you not, Mr. Wong? A. Yes.

Q. How old were you at that time?

A. You mean myself?

The Court: Yes.

(Testimony of Wong Ho.)

The Witness: According to the Chinese calendar, the year of CR 1, I was 28 years old.

Q. (By Mr. Dooley): And so in 1921 you were 36 years of age at that time, were you not? [212]

A. You say 1921?

Q. Yes. A. About 37.

Q. According to the Chinese calendar?

A. Yes.

Q. You stayed on that trip to 1923, did you not?

A. Yes.

Q. During that trip your No. 3 and your No. 4 sons were born? A. Yes.

Q. Then you went back to China again in 1934, isn't that true? A. Yes.

Q. At that time you were 50 years of age, is that true? A. About 50 years old.

Q. That is Chinese calendar? A. Yes.

Q. At that time your wife was 45 years of age, was she not?

A. I am about nine years older than my wife.

Q. I am going to call your attention to Plaintiffs' 10-B in evidence, and see if this refreshes your recollection as to how old your wife was when you went back to China in 1934. [213]

"Q. Describe your wife and family.

"A. Yes. She 45 years old, natural feet, living in Chung Hing Village. I have four sons and no daughters: Wong Loon Kwong, 21, in China, never tried to come to the United States, not married, living in Chung Hing Village; Wong Kwok Hoy, 20, not married, attending school in Helena, Mon-

(Testimony of Wong Ho.)

tana; Wong Kwok King, born in 1922, living in my home village. Kwok Foo, born in 1924, living in my home village."

Does that refresh your recollection as to how old your wife was at the time you returned to China in 1934?

A. I don't think this is right, because I know I am about nine years older than my wife. I am nine years older than my wife. When I married her I was supposed to be nine years her senior.

Q. How many brothers do you have, Mr. Wong?

A. Including me, four.

Q. Your No. 1 child, you testified, I believe, was born in Wong Ock Village, is that true?

A. Yes.

Q. The rest of your children were born in Chung Hing Village?

A. The rest of them are all in Chung Hing Village born.

Q. When did you move from Wong Ock Village to Chung [214] Hing Village?

A. After my return to the United States.

Q. How far is Chung Hing Village from Wong Ock Village?

A. I don't know, but according to Chinese li, I suppose it is about 12 Chinese lis.

Q. When you went to China in 1934, you stayed until 1937, is that true? A. Yes.

Q. How old was Kwok Wei when you came back to the United States in 1937?

A. According to Chinese, about three years old.

(Testimony of Wong Ho.)

Q. How old was Kwok Jin when you returned to the United States in 1937?

A. He was born the first month of the year and I left about the middle part of the year.

Q. So he was one year old Chinese?

A. We call him one year old.

Q. After you last saw Kwok Wei at the village when he was three years old in 1937, when was the next time you saw him again?

A. Until he came, when he arrived here.

Q. When did he arrive here?

A. He came 1952, early part of the year. I think I would call him 17 years old.

Q. He was 17 years old when you saw him again? [215] A. Yes.

Q. Have you seen Kwok Jin since you saw him when he was one year old Chinese calendar?

A. No.

Q. How did you recognize Kwok Wei when you saw him in 1952?

A. He came with Kwok Keung together.

Q. And that is the way you recognize him, because he came with Kwok Keung?

A. Kwok Keung said, "This is Wei."

Q. And that is the reason you recognize Kwok Wei? A. Because he looks like him.

Q. You remembered him?

The Court: Mr. Dooley, it's after 3:00 o'clock. I think we better take our recess. This man has already testified how he recognized him. It isn't necessary to go through that any more.

(Testimony of Wong Ho.)

We will now recess until 20 minutes after 3:00.

(Recess.)

The Court: You may proceed.

Q. (By Mr. Dooley): You testified, Mr. Wong, that Kwok Jin is still in the village, is that true?

A. Yes.

Q. And that your wife is in Hong Kong?

A. Yes. [216]

Q. Who is Kwok Jin living with in the village now? A. Himself.

Q. Do you know the reason that your wife came to Hong Kong, leaving Kwok Jin in the village?

A. The communists wouldn't let Jin come out to Hong Kong.

Q. You testified concerning certain letters that constitute Plaintiffs' 3-H-1. The first letter, is that addressed to Kwok Wei?

A. This letter was addressed for my wife. This is the name of the store that relays the letter.

Q. The letter was addressed to Canton, China?

A. For the village.

Q. And the next letter is addressed to Wong Kwok Keung. A. Kwok Keung.

Q. That was addressed to the university in Canton, China? A. That's right.

Q. Do you have any letters, Mr. Wong, that you wrote to Kwok Wei?

A. He is a young boy and whatever I want to tell I tell to the big brother.

Q. Kwok Wei's big brother was in Canton City at the university, was he not? [217]

(Testimony of Wong Ho.)

A. When Wei was studying in school, I either write to the mother or to the elder brother.

Q. I call your attention to Plaintiffs' Exhibit 3-H-2, consisting of various receipts for money sent to Wong Kwok Keung. Do you have any receipts sending money to Wong Kwok Wei?

A. Food and other expenses, the mother take care of, and Wei was a young boy then.

Q. Do you have any receipts sending money to your wife in China?

A. Although the money was sent to Keung to be received, it is understood that the money is to cover the expenses of the home, everything.

Q. How far was Canton City from Chung Hing Village?

A. Far away. I have no definite standard to measure. Of course, according to the way the people generally take it to be, over—it must be over 300 lis, but this is not a standard way of measuring it.

Q. You never sent money to your wife in China, did you?

A. During the wartime, I had sent money home to my wife through a friend during the war years, and in those days you don't get a receipt for the money you sent to your wife directly. The other way was to send it through my boy to take care of for the family.

Q. Is your No. 1 son married? [218]

A. Yes.

Q. Is your No. 2 son married.

A. Yes.

(Testimony of Wong Ho.)

Q. Does your No. 2 son have a daughter by the name of Wong Sell Yee?

A. Kwok Hoy's daughter.

Q. And Wong Sell Yee recently arrived in the United States, did she not? A. Yes.

Q. And applied for a certificate of citizenship?

A. It doesn't matter, soon or later.

Q. And you refused to take a blood test in connection with that certificate of citizenship?

The Interpreter: You mean the grandchild's application?

Mr. Dooley: Yes.

The Witness: No.

Q. (By Mr. Dooley): Isn't it true you were requested to take a blood test in connection with Wong Sell Yee's application and refused?

The Court: Mr. Dooley, this is very interesting, but what does it have to do with this case? We are not interested in the grandchild. Evidently, from what you say, we will be interested a little later on, but what difference does it make? [219]

Q. (By Mr. Dooley): Are you willing, Mr. Wong, to take a blood test in connection with your son Wong Kwok Wei?

A. Why should you take my blood?

Q. What's that?

A. Why should you take my blood?

Q. Don't you feel your blood would be compatible with your son Wong Kwok Wei?

A. My blood?

The Court: Mr. Dooley, does the file show there

(Testimony of Wong Ho.)

has been a blood test taken by this father and his children?

Mr. Dooley: No, it hasn't your Honor.

Q. (By Mr. Dooley): Do you think your blood would match that of Wong Kwok Wei?

The Court: Mr. Dooley, you are getting too far afield. If Mr. Hertogs objected, I would have sustained the objection a long time ago. Now you are asking for a conclusion.

Mr. Dooley: I withdraw the question, your Honor.

No further questions of this witness.

Mr. Hertogs: I haven't any questions, your Honor. Oh, pardon me. I have one.

Redirect Examination

Q. (By Mr. Hertogs): Do you remember testifying at Helena, Montana—— [220]

Mr. Hertogs: I will ask that the statement made by this witness to the Immigration and Naturalization Service at Helena, Montana, October 14, 1921, and contained in Plaintiffs' Exhibit No. 10, be marked 10-D for identification.

The Court: It may be marked.

The Clerk: 10-D for identification.

(The document referred to was marked as Plaintiffs' Exhibit No. 10-D for identification.)

Q. (By Mr. Hertogs): Do you remember testifying at Helena, Montana, in 1921 before you made your second trip to China to the Immigration Service?

A. Yes.

(Testimony of Wong Ho.)

Q. How old were you at the time when you testified in 1921?

A. I was 28, CR 1, and you add nine more years, 37.

Q. Do you remember testifying in 1921 your wife was 27 years of age at that time?

A. That is about right.

Mr. Hertogs: I have no further questions, your Honor.

Mr. Dooley: No further questions.

Mr. Hertogs: I will ask that 10-D be admitted in evidence.

The Court: For what purpose? You have asked the question about the age. [221]

Mr. Hertogs: To clarify the discrepancy occurring on the other Exhibit 10-B, which is in evidence, a difference in age between the witness and his spouse.

The Court: All right. It may be received in evidence.

The Clerk: 10-D.

(The document referred to was received in evidence and marked as Plaintiffs' Exhibit 10-D.)

The Court: You may step down.

(Witness excused.)

The Court: Call your next witness.

Mr. Dooley: Wong Kwok Keung.

WONG KWOK KEUNG

recalled as a witness by and on behalf of the plaintiffs, having been heretofore duly sworn, was examined and testified further as follows:

Cross Examination

Q. (By Mr. Dooley): Mr. Wong?

A. Yes, sir.

Q. You testified, I believe, that your No. 5 brother was born in 1935, is that right?

A. You mean my fifth brother? My No. 5 brother?

Q. Yes. [222] A. You mean Kwok Wei?

Q. Yes. A. You mean when he was born?

Q. When was he born?

A. CR 24. You want the month and date?

Q. Yes.

A. According to Chinese calendar, March 28.

Q. March 28? A. Yes, Chinese calendar.

Q. You originally testified it was CR 24, March 23. Which is correct? A. 28 is correct.

The Interpreter: April 30, 1935.

Q. (By Mr. Dooley): How long did you remain in the village after Kwok Wei was born?

A. Since CR—I mean since CR 28, I left the village and went to Macao.

Q. CR 28? A. Yes, I went to Macao.

Q. How long did you remain in Macao?

A. Two years.

Q. What were you doing in Macao during those two years? A. I go to school.

Q. You came back to the village——

(Testimony of Wong Kwok Keung.)

Mr. Dooley: Will the interpreter give us the CR 28 [223] for the record?

The Interpreter: 1939 to early 1940.

Q. (By Mr. Dooley): You returned to the village in CR 30?

A. I don't remember exactly. Maybe the last month of CR 30 or the first month of CR 31.

Q. While you were in Macao attending school, did you return home at any time during that two-year period?

A. Only, I think, on the summer holiday when they didn't have school, I mean I went home only in the holiday.

Q. After you came back to the village in CR 30, how long did you remain in the village?

A. Until 33. I'm sorry. I made a mistake. 32.

Q. Where did you go in CR 32?

A. Shiao Kwan, Canton's war capitol.

Q. How long did you remain there?

A. About one year.

Q. When did you return to the village from Shiao Kwan? A. 33

Q. After you returned to the village in 33, how long did you remain in the village?

A. Until 34.

Q. Where did you go in CR 34?

A. After the victory, I went to Canton.

Q. How long did you remain in Canton when you went to [224] Canton in CR 34?

A. In Canton, I went to the Lingnan University. In the holiday, almost every holiday I go home,

(Testimony of Wong Kwok Keung.)

summer holiday and the New Year holiday, I go home.

Q. How long did you attend school in Lingnan University? A. Until 1938.

Q. When your No. 2 and No. 4 brothers came back to China in 1947, you were attending school at a university in Canton, were you not?

A. Right, sir.

Q. Where did you first see your No. 2 and No. 4 brothers in 1947? A. I beg your pardon, sir?

Q. Where were you when you first saw your No. 2 and No. 4 brothers in 1947?

A. I saw No.—let me explain, please. Kwok Foo is coming to Canton first. I saw him in the hotel. I saw my brother Kwok Hoy in a hotel, too, but not at the same time.

Q. Was that the same hotel that you saw Kwok Foo and Kwok Hoy? A. No, sir.

Q. In what city was the hotel in which you saw Kwok Foo in 1947? A. Canton.

Q. In what city was the hotel that you saw Kwok Hoy in [225] 1947?

A. Canton, same city.

Q. After you first saw Kwok Foo in 1947 in the hotel, when was the next time you saw him?

A. Until the New Year's holiday, I go home.

Q. When was that holiday?

A. The same year.

Q. 1947?

A. Yes, 36, right, CR 36. I only remember the CR's.

(Testimony of Wong Kwok Keung.)

Q. After you saw Kwok Hoy in the hotel in Canton City in 1947, when was the next time you saw him?

A. The same time as Kwok Foo.

Q. When you next saw Kwok Foo and Kwok Hoy after the meeting in the hotel and went back to the village, was Kwok Wei living in the family home?

A. Yes, sir.

Q. And was Kwok Jin living in the family home?

A. Pardon, sir?

Q. At that time was Kwok Jin living in the family home?

A. Yes, same place.

Q. Isn't it true that at that time they were living in a community house?

A. What do you mean, community? You mean Kwok Wei and [226] Kwok Jin?

Q. Yes.

A. Yes, sir.

Q. Then they weren't living in the family home at that time?

A. Kwok Hoy, Kwok Foo and my mother, my wife, and my daughter and my son.

Q. Kwok Wei and Kwok Jin were not living in the same home at the time?

A. Not in the home. In the same village.

Q. In the same village?

A. Yes, sir.

Q. When did you go to Hong Kong to come to the United States?

A. You mean when?

Q. Yes.

A. CR 39.

Q. Who went with you?

A. Alone, by myself.

(Testimony of Wong Kwok Keung.)

Q. Did you ever see Kwok Wei in Hong Kong after that time?

A. Yes, he came to Hong Kong about one month later.

Q. How old was Kwok Wei at the time you went to school in Macao?

A. In Macao? Will you give me time? I want to figure [227] out. Five years old.

Q. How old was Kwok Wei when you returned from school in Macao?

A. You mean I return in CR 30 or first month 31? I don't remember exactly. The last month of 30 or the first month of 31. I don't remember exactly when.

Q. How old was Kwok Wei at that time?

A. Seven or eight.

Q. When you commenced school in Bak Chung, how old was Kwok Wei?

A. Eight or nine.

Q. When you started school in Canton, how old was Kwok Wei? A. 10 or 11.

Q. I show you Plaintiffs' Exhibit 3-C and ask you if you know when that photograph was taken.

A. About 23 CR.

The Court: CR 23?

The Witness: Yes.

Mr. Dooley: To save time, I believe the interpreter will state that the difference between CR and English is 11 years, approximately.

Mr. Hertogs: I will agree to that, your Honor.

The Court: All right.

(Testimony of Wong Kwok Keung.)

Q. (By Mr. Dooley): Where was that taken?

A. Canton.

Q. Do you remember what time in CR 23 that was taken?

A. Approximately, but not exactly. I think it is June or July, somewhere like that.

Q. What were you doing in Canton at the time that picture was taken?

A. Just a trip is all.

Q. Exhibit 3-E, when was that taken?

A. When?

Q. Yes. A. 38, CR 38.

Q. How old was Kwok Wei at the time Exhibit 3-E was taken? A. About 15 years old.

Q. Kwok Jin was taller than Kwok Wei at that time, was he not? A. Yes, a little bit taller.

Q. And Kwok Jin and Kwok Wei were sleeping in the community house, were they not?

A. Yes, sir.

The Court: Let me have that a minute. You say this No. 12 is your No. 5 brother?

The Witness: Kwok Wei.

The Court: Who is No. 7?

The Witness: Kwok Jin. [229]

The Court: What is the difference in ages between the two?

The Witness: One years difference.

The Court: Who is the older?

The Witness: Excuse me. Two years difference.

The Court: Who is the older?

The Witness: Kwok Wei is older.

(Testimony of Wong Kwok Keung.)

The Court: He is the smaller?

The Witness: Looks small, yes, but he is older. He looks shorter there than Kwok Jin. He looks small, but he is older.

The Court: And he is two years older?

The Witness: Oh, yes.

The Court: Are you sure of that?

The Witness: Oh, yes, I am sure.

Q. (By Mr. Dooley): I call your attention to Plaintiffs' Exhibit 7 and ask you if you know when the photograph on that exhibit was taken.

A. When?

Q. Yes. A. CR 40, something like that.

The Court: When?

The Witness: CR 40.

Q. (By Mr. Dooley): Where was that photograph taken?

A. This photograph was taken by the organization that [230] belongs to the Hong Kong government, but I didn't remember where.

The Court: Let me see that. This identity is dated August 11, 1951?

The Witness: Yes.

The Court: Was this picture taken about August 11, 1951?

The Witness: Yes.

The Court: About the same time?

The Witness: No, a little bit earlier, because the first time I take this.

The Court: These pictures were taken for this identification card?

(Testimony of Wong Kwok Keung.)

The Witness: That's right, for the identification.

The Court: And that is true with your brother's picture, too?

The Witness: What do you mean, sir?

The Court: The other picture?

The Witness: Yes.

The Court: It was taken about the same time?

The Witness: The same day.

Q. (By Mr. Dooley): How old was your brother Kwok Wei at the time the picture on Exhibit 8 was taken about August 11, 1951? A. 17.

The Court: 17?

The Witness: Yes.

The Court: It says on the picture, identity card, 16.

The Witness: I might have got it wrong. 17 is right.

The Court: Then the card is wrong. The card says 16.

The Witness: You mean the age?

The Court: This card says age 16.

The Witness: According to Chinese custom, when you are born, you get one age. Over here you get two. But the Hong Kong government counts them different.

The Court: Is this American age or Chinese age?

The Witness: I don't know.

The Court: When you say 17, is it Chinese or American age?

The Witness: It is Chinese.

(Testimony of Wong Kwok Keung.)

The Court: 17 in Chinese?

The Witness: Yes.

Q. (By Mr. Dooley): I show you Plaintiffs' Exhibit 6 and ask you if you know when the photograph on that exhibit was taken. A. When?

Q. Yes. [232]

A. I don't remember this one.

The Court: Was that photograph taken before the photograph on Exhibit 8, or do you know?

The Witness: I am not sure, *sure*. I don't know.

The Court: All right.

Q. (By Mr. Dooley): I show you Plaintiffs' Exhibit 5 and ask you if you know when the photograph appearing thereon was taken.

A. This one?

Q. Yes. A. About 38 CR.

The Court: You made your application the same time your brother made an application, didn't you?

The Witness: Yes, that's right.

The Court: You had to have a photograph?

The Witness: Yes, we had a photograph.

The Court: Didn't your brother go with you at the same time to have his photograph taken?

The Witness: No.

The Court: He didn't?

The Witness: No.

The Court: You don't know where your brother got his photograph?

The Witness: I don't remember.

The Court: You don't remember? [233]

The Witness: I don't remember.

(Testimony of Wong Kwok Keung.)

Q. (By Mr. Dooley): I show you Plaintiffs' Exhibit 3-D and ask you if you know when that photograph was taken.

A. This one, that is the time I came home from Canton about 37 or 38.

Q. Where was Kwok Wei at the time this photograph was taken? A. At home.

Q. When is the first time you ever saw a photograph of Kwok Wei?

A. What do you mean, sir?

Q. When is the first time in your life that you saw a photograph of Kwok Wei?

A. Oh, those pictures, the family picture.

The Court: I think it was Exhibit 3-C.

The Witness: The group picture.

Mr. Hertogs: 3-E.

The Court: You've got it there, Mr. Dooley.

The Witness: This one.

The Court: That is the first photograph?

The Witness: Yes, I think so.

Q. (By Mr. Dooley): I show you Plaintiffs' Exhibit 3-A and ask you if you know when the photograph on that exhibit was taken.

A. The same one as this. I don't remember.

The Court: Mr. Dooley, aren't these photographs all the same? I can't see any difference about them.

Mr. Dooley: That does seem to be about the same.

The Witness: This is the same photograph.

Q. (By Mr. Dooley): You stated that was

(Testimony of Wong Kwok Keung.)

taken about CR—— A. CR 38.

Q. During the war did the Japanese come to your village? A. No.

Q. Did you see any Japanese soldiers during the war? A. No, sir.

Q. Did the Japanese come to Canton during the war? A. Yes.

Q. You weren't in Canton at the time the Japanese soldiers were there? A. No.

Q. Did the Japanese soldiers come to Macao during the war? A. No.

Mr. Dooley: No further questions.

Mr. Hertogs: I have no further questions.

The Court: All right. You may step down.

(Witness excused.)

The Court: Mr. Dooley, have you got any other witnesses? [235]

Mr. Dooley: No, your Honor.

The Court: I would like to have the other plaintiff here.

Mr. Hertogs: Well, he is just outside the door, your Honor.

The Court: All right. We can ask him in the morning.

Mr. Dooley: Your Honor, I would like to mention the exhibits, so that the clerk's minutes are correct, they will show that they belong to the defendant, although they are marked plaintiffs' exhibits.

The Clerk: Which exhibits?

Mr. Dooley: The records.

The Court: Mr. Dooley, I am quite sure the clerk marked them exactly as they were offered.

Mr. Dooley: That's true, but in order to get them back.

The Clerk: He is talking about the government records.

Mr. Hertogs: The plaintiffs won't ask for them back.

Mr. Dooley: But the clerk upstairs sometimes raises an objection.

The Court: You want an order to withdraw the documents upon substitution of photostats at the end of the case? [237]

Mr. Dooley: Yes. But if they are marked plaintiffs' exhibits, they are reluctant to hand them over.

Mr. Hertogs: I think we can enter into a stipulation.

Mr. Dooley: If the minutes of the court show they belong to the defendant, then we won't have trouble getting them back.

The Court: All right.

The Clerk: If you have trouble, just ask me.

Mr. Hertogs: At this time, your Honor, I would ask that a stipulation permitting the defendant to make an examination of the plaintiff Wong Kwok Wei in this particular case, which was signed and agreed upon by counsel for the parties in 1952—I can't recall the exact date.

The Court: February 21.

Mr. Hertogs: —be introduced into the record and marked as plaintiffs' exhibit next in order.

Mr. Dooley: I object to that, your Honor, for

this reason. That stipulation was entered into by an Assistant United States Attorney in the Northern District of California some four years ago.

The Court: He represents the government, doesn't he?

Mr. Dooley: Why the examination wasn't taken at that time, I have no way of knowing in any form or fashion. [237] The only thing that the Public Health Service up there reported is that they have no record of the examination or whether one was taken and lost. As an additional reason, I don't think there is any material issue in this case on that.

The Court: Objection overruled. It may be admitted in evidence.

The Clerk: Exhibit 12.

(The document referred to was received in evidence and marked as Plaintiffs' Exhibit No. 12.)

The Court: I think it is one of the things to be considered in this case, along with the other testimony.

Mr. Hertogs: I would ask that Plaintiffs' Exhibit No. 2 for identification, which is the official Immigration and Naturalization Service file, be introduced in evidence.

The Court: That is the complete file?

Mr. Hertogs: The complete file.

Mr. Dooley: The defendant objects to the complete file on the ground it is hearsay and will only clutter up the record in case the matter is appealed.

The Court: You know, it seems to me when the

government keeps records on a case, as in this kind of a case, the government shouldn't have any objection to having all their own records go before the court.

Mr. Dooley: We don't particularly have any objection, except that it makes the record cumbersome and it is [238] pretty difficult to find what is in evidence and what isn't. We have a lot of hearsay, admittedly. If, when the government wants to introduce the various records, we were able to do so, I could see it, but it doesn't work both ways.

Mr. Hertogs: There has never been an objection on my part.

The Court: Mr. Dooley, if a rule works one way in this court, it is going to work the other way. The objection is overruled. It may be admitted in evidence.

The Clerk: Exhibit 2.

(The file referred to was received in evidence and marked as Plaintiffs' Exhibit No. 2.)

Mr. Hertogs: We will ask that Plaintiffs' Exhibit No. 9 for identification and Plaintiffs' Exhibit No. 10 for identification, both of which are official files, be admitted in evidence.

The Court: Same objection?

Mr. Dooley: Well, the court probably didn't understand. Ordinarily, we have no objection, but repeatedly before this court we have sought to put the entire files before the court, and we always run into objections from the other side.

The Court: Mr. Dooley, I sustained the objec-

tion because the other side had nothing to do with the preparation of the files, but the government is the one who is preparing [239] those files. They took the testimony.

Mr. Dooley: That is true, but we didn't make the statements given in the files.

The Court: Objection overruled. It may be admitted in evidence.

The Clerk: Exhibits 9 and 10.

(The exhibits referred to were received in evidence and marked as Plaintiffs' Exhibits 9 and 10.)

Mr. Hertogs: We have two other pieces of evidence, your Honor, marked for identification, one of which is the balance of the State Department file, which has not been marked individually, and which is marked as Plaintiffs' Exhibit 3 for identification. Then we have an envelope which was attached to and made a part of Exhibit 3 and which has been 3-H. I ask they both be admitted in evidence.

Mr. Dooley: There is an objection on the ground it is hearsay, irrelevant and immaterial, and has never been admitted when the defendant seeks to offer the contents of the State Department file.

The Court: Objection overruled. It may be received in evidence.

The Clerk: 3-H.

(The exhibit referred to was received in evidence and marked as Plaintiffs' Exhibit 3-H.)

Mr. Dooley: Incidentally, in that connection,

the [240] envelope purports to contain certain X-rays that have not been authenticated. In order for the defendant to authenticate them, we had to take a deposition in Hong Kong, and I don't think that the plaintiff should be permitted to get into evidence X-rays that have no authentication. There is no testimony before the court as to who took them, where or how.

The Court: You mean to say there are some X-rays in the file that haven't been presented to the court so far? The only X-rays I know of are these attached to the deposition.

Mr. Dooley: There is an envelope which purports to contain some X-rays taken by a doctor. Who he is or whether he took them, I don't know. Without some authentication, I don't think those should be admitted in evidence.

Mr. Hertogs: They were in the file, the State Department file.

Mr. Dooley: Because they were sent by this doctor to the State Department with a letter.

The Court: Now, Mr. Dooley, we are going to have a doctor here tomorrow. I suppose we are going to have him. This doctor made an examination of the plaintiff and is going to testify. I certainly will pay more attention to this doctor than to some doctor over in Hong Kong.

Mr. Dooley: I think you will find this, your Honor. The reason the defendant, at the time I got the file, didn't seek to have a radiological examination made, from what I have [241] learned from

the experts that I have discussed the matter with, is after a person reaches a certain age, it is much more difficult to ascertain his age with any degree of specificity than it is at an earlier date. Even according to his claimed age now, the plaintiff is from '35 to '57, which would be approximately 22, and even if there were five years difference, the degree of accuracy is not now nearly as close as it was in 1951.

Mr. Hertogs: I would just call your attention to one little point. If you look at the date of the X-ray and the date of the stipulation, you will find there is but a six months variation. There wasn't too much time between the time of the first X-ray and the time of the stipulation and agreement. I don't think that that argument will stand up in the light of the evidence.

The Court: I wonder if we can have the interpreter read what is on the back of this envelope. I can't read it, Mr. Dooley. I want the interpreter to read it for the record.

The Interpreter: The top piece of white paper states, To Hong Kong, Garden Road, 518 number, American Consulate, No. 215, room number, Naturalization Division.

Here are the words under it. Dr. Goh, Hong Kong University, Medical Doctor, England, Wales University, TBMS, the degree equal is—it sounds like Balding TB Hospital, Tuberculosis Hospital, specialist, or special division, [242] London, Oiman Street Hospital, Child Specialist or Special Department.

Then down here is Medical Office, X-ray, Electrical Treatment, Hong Kong, Hennessey Road, No. 267, Second Floor, Phone No. 22275.

The Court: Mr. Dooley, this was found in the government's file, wasn't it?

Mr. Dooley: Yes, your Honor, but now, if I could be assured of the admissibility merely because it is in a government file, then there wouldn't be any necessity for trying to take a deposition, because it is always in the file.

The Court: Is the only thing you are objecting to these X-rays?

Mr. Dooley: I withdraw my objection, your Honor, and allow the X-rays to go in and let the expert tomorrow morning look at the entire file.

The Court: All right. It may go in.

Mr. Hertogs: I would suggest the interpreter put in the record the Chinese characters on this envelope dated June 17, 1946, which is part of Exhibit 3-H-1.

The Court: The Chinese word order is different. They put the word at the end of the name.

Mr. Hertogs: Read the whole translation.

The Interpreter: Hong Kong, Toy Shan, Chew Ging Hai Son, or Market, to be relayed to Wong Kwok Jin's mother, [243] to be received, sent by Wo Hing. That's all the Chinese on this.

Mr. Hertogs: I have nothing else at this time.

The Court: I assume that the witness we are going to have tomorrow is the doctor?

Mr. Hertogs: The court said he wanted the other plaintiff back.

The Court: Yes, I want to ask him one question. You will be ready to proceed with the other case tomorrow?

Mr. Hertogs: Yes, your Honor. What time do you want to start with the other?

The Court: I don't know how long the doctor will take.

Mr. Hertogs: I imagine at least an hour or more.

The Court: Do you want the other case at 2:00 o'clock tomorrow afternoon?

Mr. Hertogs: That is agreeable, your Honor, unless Mr. Dooley feels we may not get through.

The Court: We will get through tomorrow morning. I don't see how you are going to take more than a half day on the doctor.

Mr. Dooley: We will get through tomorrow morning with this case, I am sure. I feel we will, at least.

(An adjournment was taken to 10:00 o'clock a.m., Thursday, January 24, 1957.) [244]

January 24, 1957, 10:00 o'clock, a.m.

The Clerk: No. 20144, Wong Kwok Keung and Wong Ho, as guardian of Wong Kwok Wei, vs. Dulles, further hearing.

Mr. Hertogs: Your Honor, at the time this case was continued last week, we had expected to be able to put on an expert witness this morning concerning the age of this boy. However, I talked to the doctor last night and I have talked to the doctor this morning. It is very definite and clear there will

have to be further tests and examinations made in this case. As a matter of fact, I was told three or four months ago this boy had malaria and that was indicated from the X-rays which were taken. I asked the doctor how long it would take and he said if he went out there today and if they hurried with it they could probably have it ready on Monday, but they can't give us assurance it will be ready on Monday.

The Court: This is your case. It will mean you will have to come back again.

Mr. Hertogs: I realize that, but I am in no position to put on a doctor that is not ready to testify.

The Court: I think the medical testimony in this case may be very important. I don't know whether it will or not. I have a jury case next week. There is some probability that it may not be tried. Even though it is tried, I think I can give you another day next week, but I don't know what [247] day right now.

Mr. Hertogs: Here is the situation, your Honor. I will go and have these tests made as fast as they can be made, and I will stand by, and I am satisfied, if it is agreeable with the doctor, it is agreeable with me, I mean I can switch my calendar around to take care of whatever I have scheduled in San Francisco, and if I have notice of one night, I can be down here and have a session in the morning or the afternoon. All I have is the doctor.

The Court: I can't hear the matter on Monday.

Mr. Hertogs: I know that. I don't think we would be prepared on Monday. I think we would be

gambling if we set it for Monday, because the doctor indicated if everything went along smoothly they might be able to be ready Monday. It is possible they may not, because they may not be able to complete the tests until Tuesday.

The Court: The only thing we can do it wait for the medical reports.

Mr. Hertogs: I would suggest it be continued to some day next week at the court's convenience and preferably in the latter part of the week.

Mr. Dooley: Your Honor, I have a trial before Judge Byrne right now, either Tuesday or Wednesday, that will start. I believe it is Wednesday. If the court can set it up for Tuesday, I believe I could be here. [248]

The Court: We will know later in the day about this jury case.

Mr. Hertogs: We can just pass it temporarily then.

The Court: If this jury case is not going to trial, I can hear you on Tuesday. Even though it is going to trial, I can hear you on Tuesday. I can get my jury and tell them to come back on Wednesday.

Mr. Hertogs: I don't think it is going to take long, probably an hour for the medical testimony.

The Court: You say Tuesday——

Mr. Dooley: I believe it is. Right now the case is scheduled to begin Wednesday before Judge Byrne.

The Court: Suppose we continue the matter until Tuesday then just for the purpose of taking the

medical testimony. No other testimony. If there is any other testimony, I want it today.

Mr. Hertogs: Yes, your Honor.

The Court: All right.

Mr. Hertogs: Your Honor said that you wanted this witness back.

The Court: Let me have one of those exhibits that has the photograph of this witness on it. Any one of them, I don't care which one. [249]

WONG KWOK WEI

recalled as a witness herein, having been heretofore duly sworn, was examined and testified as follows, through the interpreter:

Examination

Q. (By the Court): I want to show you Exhibit 3-A, which is an application for a passport, on the back of which is a picture. That is your picture, isn't it? A. Yes.

Q. When was it taken?

A. When was it taken?

Q. Yes.

A. In Chinese calendar, about 40 or 41, something like that.

Q. You mean CR 41?

A. Yes, CR 41 or 40. I don't remember which year.

Q. This application is dated 5th day of March 1951. This picture was taken before the application was filed?

A. What do you mean by that, your Honor?

(Testimony of Wong Kwok Wei.)

Q. Did you have this picture taken for the purpose of attaching it to the application?

A. Yes.

Q. When you made the application, you had to have a picture, didn't you? [250]

A. Yes.

Q. Did you go out and have this picture taken?

A. Yes, sir.

Q. About what time relative to the application? Just before the application was filed?

A. No, before the application.

Q. How long before?

A. I don't remember, your Honor.

Q. How old were you when this picture was taken?

A. About 16 or 17, sir.

The Court: Let me have the other pictures, will you, please?

The Clerk: Of the other boy?

The Court: No, not the other boy.

Q. (By the Court): I want to show you Exhibit 8. That is your picture, isn't it?

A. Yes.

Q. How old were you when that picture was taken?

A. About 16 or 17.

Q. Then these two pictures were taken at the same time?

A. No, not at the same time. About the same year, I think.

Q. Not the same year?

A. About the same year. The same year. [251]

Q. You were going to school when this picture on Exhibit 8 was taken?

A. Oh, no.

Q. You weren't?

(Testimony of Wong Kwok Wei.)

A. No. It was in Hong Kong for residence.

Q. It says identity card. What was the identity card? What did you have that for?

A. For identification?

Q. Yes. A. Yes.

Q. This is not a school card?

A. No, not a school card.

Q. Which picture was taken first?

A. I think this one is first and then that one.

Q. And that is Exhibit 3-A was taken first. Now, in reference to Exhibit 3-E, the testimony is that the boy—— A. That is me.

Q. The 12 is you? A. That is me.

Q. How old were you then?

A. Oh, let's see. About 14 or 15, something like that.

Q. 14 or 15? A. Yes.

Q. And the boy that is marked 7?

A. That is my small brother. [252]

Q. That is your small brother? A. Yes.

Q. And he was larger than you here?

A. A little bit.

Q. A little bit? A. Yes, a little bit.

Q. Did you ever weigh yourself in China?

A. No.

Q. Then your testimony is that the picture on 3-A was taken one or two years after the picture on 3-E?

A. This one taken before this one. (Indicating.)

Q. Yes, I know, but there is only one two years difference.

(Testimony of Wong Kwok Wei.)

A. I think so, two or three years.

Q. Well, now, you said that the picture on 3-E, at that time you were 14 or 15. A. Yes.

Q. You say the picture on 3-A, you were 16 or 17. A. 16 or 17, about, yes.

Q. Where was the picture on 3-A taken?

A. In Hong Kong.

Q. Where was the picture on 3-E taken?

A. In China.

Q. Whereabouts? A. Where? [253]

Q. Yes. A. In my own village.

Q. In your own village? A. Yes.

Q. Where was the picture taken on Exhibit 8?

A. In Hong Kong.

The Court: I have no other questions. Mr. Dooley, do you want to ask any questions, or Mr. Hertogs?

Mr. Hertogs: I was going to ask a few questions and I think it might clarify the issue.

Redirect Examination

Q. (By Mr. Hertogs): Referring to Exhibit 3-E, was this picture taken in your home village before your brother's return to the United States?

A. Yes.

Mr. Hertogs: I would ask the government to stipulate that the official records of the Immigration and Naturalization Service show that the two witnesses, Wong Kwok Hoy and Wong Kwok Foo, returned to the United States in CR 49.

Mr. Dooley: I don't have the dates. However, the

(Testimony of Wong Kwok Wei.)

records of Foo—no. Incidentally, the Immigration Service doesn't keep records of returns after the war, so I couldn't stipulate to that. [254]

The Court: Isn't the testimony in this case that picture was taken in 1949?

Mr. Hertogs: That is correct.

The Court: That is my recollection.

Mr. Hertogs: I wanted to show it would have to be taken before that date, see?

Q. Now, were you requested by the American Consulate General in Hong Kong to secure pictures at the time prior to your appearance for filing the passport application, which is Exhibit 3-A? Wait a minute. I will rephrase the question.

Did you receive a request from the American Consulate to appear and testify in connection with your passport application?

A. I am not so sure, see, because my brother take care of all those things.

The Court: Did you have that picture taken when your fifth brother took his picture? Did you take your picture together?

The Witness: No.

The Court: Let me have the other application, will you? I want the application for passport.

This is your brother's picture on Exhibit 3-B, isn't it?

The Witness: Yes.

The Court: Your brother testified that he went out [255] and got this picture at the time he filed the application for passport. Did you and he go

(Testimony of Wong Kwok Wei.)

together when he got this picture and you got that picture?

The Witness: You mean go together, or what?

The Court: Have the same photographer?

The Witness: I don't think so.

The Court: You don't think so?

The Witness: No.

The Court: Were you present when he had this picture taken?

The Witness: What I did?

The Court: Were you there when your brother had this picture taken?

The Witness: No, I don't think so.

The Court: Was he with you when you had your picture taken?

The Witness: I think so, he was there. I am not so sure, though.

The Court: You are not sure?

The Witness: I am not sure.

The Court: All right.

Q. (By Mr. Hertogs): Where was this picture taken? A. In Hong Kong.

The Court: "This" doesn't mean anything in the record. That is Exhibit 8. [256]

Mr. Hertogs: Exhibit 8.

The Court: All right.

Q. (By Mr. Hertogs): Where in Hong Kong?

A. You mean where?

Q. Where. A. In Hong Kong.

Q. Where in Hong Kong?

A. You mean what place?

(Testimony of Wong Kwok Wei.)

Q. Yes.

A. In a public building where everybody go to take picture.

Q. Was this card issued to you by the British authorities in Hong Kong? A. I think so.

Q. How long after the picture was taken did you receive this card with the picture attached?

A. I don't remember, sir. My brother take care of that.

Mr. Hertogs: Thank you. No further questions, your Honor.

The Court: Mr. Dooley, do you have any questions?

Mr. Dooley: Yes, your Honor. [257]

Recross Examination

Q. (By Mr. Dooley): This picture you testified was taken just about a short while before your brothers came to the United States, is that right?

The Court: Mr. Dooley, "this picture" doesn't mean anything.

Mr. Dooley: I'm sorry.

The Court: I know what you are talking about, but if you appeal this case, the Circuit won't know what you are talking about.

Mr. Dooley: That is true.

Q. I refer you to Exhibit 3-E and ask you whether the photograph was taken just before your brothers returned to the United States in 1949.

A. Some time after taking the picture, about

(Testimony of Wong Kwok Wei.)

two or three months, and then they come to the United States.

Q. Now, this picture was taken how many months before the application was filed?

A. I don't remember that.

Q. How long after your brothers returned to the United States was it that you went to Kong Kong to come to the United States?

A. About a few months.

Q. About how many months? [258]

A. Oh, let's see. About five or six months.

Q. How soon after that did you go to the American Consulate to try to come to the United States? How soon after you reached Hong Kong did you go to the American Consulate to try to come to the United States?

A. Almost a year, sir.

Mr. Dooley: I have no further questions, your Honor.

Mr. Hertogs: No further questions, your Honor.

The Court: Well, this case will be continued to next Tuesday morning at 10:00 o'clock.

Mr. Hertogs: Thank you, your Honor.

The Court: If at that time the doctor is not ready to testify——

Mr. Hertogs: I will let the court know on Monday for sure.

The Court: Then you may not have to make the trip.

Mr. Hertogs: I will definitely let the court know.

The Court: All right. Then we will be ready to

proceed on the other case at 2:00 o'clock this afternoon. [259]

February 12, 1957, 10:00 O'Clock A.M.

The Clerk: No. 20144, Wong Kwok Keung et al., vs. John Foster Dulles, further trial.

Mr. Hertogs: Ready, your Honor.

Mr. Dooley: Ready.

The Court: The only purpose of this hearing was to hear the medical testimony. Have you got your doctor here?

Mr. Hertogs: Yes, I have, your Honor.

The Court: We will call the other case.

(Other court matters were taken up.)

The Court: All right, Mr. Hertogs, you may proceed.

Mr. Hertogs: Before I call my witness, I would like to renew the motion with regard to the deposition in Hong Kong. At this time I would move that the deposition introduced as Exhibit No. C be stricken from the record on the ground that such exhibit fails to show that the person who testified in Hong Kong meets the qualifications of an expert witness, and also it deprives the plaintiff of the right of cross examination, because under Rule 26 it is essential for cross examination to be permitted unless it can be established that the deposition should not be admitted in a case of this nature unless witnesses are unavailable. [261]

I want to call your attention to this one case, a decision by Judge Mathes of this court, in which

he commented upon an administrative procedure, 121 Fed. Supp. 463.

The Court: Wait a minute.

Mr. Hertogs: That is 121 Fed. Supp. 463, starting at page 475.

The Court: I will read the case. The motion is denied.

We have got the doctor here and I want to hear what he is going to say.

Mr. Hertogs: I have the doctor here. Dr. Jacobson, will you take the stand, please?

GEORGE JACOBSON

called as a witness herein by and on behalf of the plaintiffs, having been first duly sworn, was examined and testified as follows:

The Clerk: Will you please state your name?

The Witness: George Jacobson.

The Clerk: How do you spell your last name?

The Witness: J-a-c-o-b-s-o-n.

Direct Examination

Q. (By Mr. Hertogs): Where do you live?

A. 2313 Moreno Drive, L. A. 39. [262]

Q. What is your profession?

A. Physician.

Q. Are you licensed to practice in the State of California? A. Yes, I am.

Q. Would you explain briefly for the court your background?

A. I am a radiologist. I am chief radiologist of the Los Angeles County Hospital, and professor

(Testimony of George Jacobson.)

and head of the department of radiology at the University of Southern California.

Q. What education have you had with regard to radiology, Doctor?

A. I had a three-year residency at the Los Angeles County Hospital, following a two-year internship, and I have been in the practice of radiology, counting the residency, since 1939.

Q. Do you belong to any organizations or societies specializing in radiology?

A. Yes. I belong to the two local societies, the L. A. Radiology Society and the Radiology Society of Southern California, the American College of Radiology, Radiology Society of North America.

Q. Doctor, in connection with your radiological [263] studies, have you had any past experience concerning the bone age of individuals?

A. Yes, I have.

Q. As a matter of fact, you have previously testified as an expert witness before this court?

A. Yes, I have.

Mr. Hertogs: May we have the shadow box put up here, your Honor?

The Court: Yes, the bailiff will put it up for you.

Mr. Hertogs: Before we start, your Honor, may we have the lower X-ray here marked as Plaintiffs' exhibit next in order for identification?

The Court: It may be marked.

The Clerk: 13 for identification.

(Testimony of George Jacobson.)

(The exhibit referred to was marked as Plaintiffs' Exhibit No. 13 for identification.)

Q. (By Mr. Hertogs): Doctor, I call your attention to——

Mr. Dooley: Your Honor, may I interpose an objection to the exhibit and to questioning on the exhibit 13 because it hasn't been authenticated as when and where it was taken. It doesn't appear that that this doctor took that particular X-ray.

The foundation for the taking of the X-ray——

The Court: May I inquire, where was the X-ray found? [264]

Mr. Hertogs: He will have to testify with regard to that, your Honor. I personally took the plaintiff in this action to the X-ray laboratory of Dr. Maurice Robinson in the City and County of San Francisco on the date indicated on the X-ray plate, which is January 31, 1952, and that X-ray, your Honor, has been in my possession ever since that date.

Mr. Dooley: I don't question Mr. Hertogs' statement, but then as to the foundation of who took the X-ray and the conditions——

The Court: Mr. Dooley, you know, theoretically, I think I would be justified in granting Mr. Hertogs' motion to strike your deposition and the doctor's testimony that you introduced relative to the X-rays and the opinions given concerning the age of this applicant. I didn't do that.

Now you are coming in and raising a very technical objection. I will be very frank to say if I

(Testimony of George Jacobson.)

sustain the objection I will then reconsider and grant Mr. Hertogs' motion to strike the deposition and the exhibits and the opinions thereon, and if we do that, then we have no testimony at all.

Mr. Dooley: I think, your Honor, that although the objection might be technical, generally when an X-ray is introduced, you produce the person who made the X-ray.

The Court: Not only that, but as a general rule, as Mr. Hertogs stated, he should have had the opportunity to cross examine the doctor over in [265] Hong Kong and find out when the X-rays were taken, how they were taken, and also the qualifications of the doctor. I think you are skating on rather thin ice.

The objection is overruled.

Q. (By Mr. Hertogs): Doctor, referring first to the upper X-ray, which is the X-ray attached to the deposition, which is Exhibit C in this case, you notice the picture at the top. Can you tell us from your past experience the approximate age of the person whose X-ray was taken at that time?

A. Referring to the textbook which is in standard use in this country, the Radiographic Atlas of Skeletal Development of Hand and Wrist by Grulich and Pyle, that would be, as we looked this over just a few moments ago, according to these standards, that would place it, oh, somewhere between 10 and 11 years of age.

Q. At that time?

A. At that time.

The Court: What is the number of that exhibit?

(Testimony of George Jacobson.)

Mr. Hertogs: This is C, your Honor.

The Court: Exhibit C.

Q. (By Mr. Hertogs): Now, referring to the——

The Court: Just a minute. When was this X-ray taken?

Mr. Hertogs: That was taken March 14, 1951.

The Court: All right. [266]

Q. (By Mr. Hertogs): Now, referring to Plaintiffs' Exhibit 13, at the bottom here, which also has an X-ray of the hand, can you tell us the approximate age at that time?

A. It would have to be, according to these standards, approximately it corresponds most closely to the standard given for 12 years and 6 months.

The Court: When did you say that was taken?

Mr. Hertogs: January 31, 1952.

Q. In other words, Doctor, between March of 1951 and January of 1952, there is a larger variation in the bone development than there is in the chronological time? A. Somewhat.

Q. Doctor, do you have an X-ray of one Wong Wei which was taken here recently? A. Yes.

The Court: It may be marked Plaintiffs' Exhibit No. 14.

The Clerk: Exhibit 14 for identification.

(The exhibit referred to was marked as Plaintiffs' Exhibit 14 for identification.)

Q. (By Mr. Hertogs): Doctor, was this X-ray taken at your request and under your direction?

A. Yes, it was.

Mr. Hertogs: May I put this on here? [267]

(Testimony of George Jacobson.)

The Court: Yes.

Q. (By Mr. Hertogs): This X-ray, I believe, was taken January 23, 1957. A. Yes, it was.

Q. From the X-ray of January 1957, can you tell us the approximate bone age of the person concerned?

A. This is where we get into a somewhat more difficult period, because at this stage this boy's epiphysis, that is, the growing ends of his long bones, have almost all united excepting possibly the distal ends of the radius which, too, is almost completely united, although still slightly open, so at this stage we get into a rather indefinite period where this boy—for instance, if you look at the standards here, he could be 17, 18, or he could be 25, as a matter of fact. If you get into the stage of development where the epiphysial closure is very irregular, that could be.

The Court: From the X-ray, you wouldn't be able to estimate the age of the boy in January 1957?

The Witness: No, sir.

The Court: You would say anywhere from 17 to 25 years?

The Witness: Yes. I mean this is a very indefinite period. As a matter of fact, the standard books don't go beyond the age of 18.

Q. (By Mr. Hertogs): According to the last [268] X-ray, the boy could be 21 on January 1957?

A. Yes.

Q. From looking at those X-rays, Doctor, is it your opinion that there was an acceleration be-

(Testimony of George Jacobson.)

tween the time of the taking of the first X-ray in March 1951 and the time of the taking of the last X-ray in January 1957, giving consideration, also, to the X-ray taken in January 1952?

A. Well, let me answer the question this way. Supposing this boy corresponds to his age on the film as we have it here, both in Hong Kong and in this one taken in San Francisco, let's take the one in San Francisco, which is exactly five years ago. If he is 12 years old then, he could be 17 years now without any difficulty, according to these films, I mean this could represent the bones of a 17 year old boy at present, so that then there would be no discrepancy.

On the other hand, this could also represent the bones of a boy of 21 now, so that if that were true, then there would be a discrepancy. In other words, he could have accelerated growth between the films of 1952 and the films of today. Now, this something, of course, I would have no way to judge. Now, if you would——

Q. Looking at the film of March 1951 and the film of January 1952, you stated the film of March 1951 indicated a bone age of—was it 10?

A. 10 years, roughly. [269]

Q. 10 years, and the other one indicated about 12 years and six months?

A. We said it was between 10 and 11 years of age.

The Court: That is in 1951?

The Witness: Yes, sir.

(Testimony of George Jacobson.)

Q. (By Mr. Hertogs): In March 1951?

A. Yes.

The Court: And in 1952 you said 12½.

Q. (By Mr. Hertogs): So in the nine months period, it shows a definite acceleration?

A. Acceleration of growth more than one would usually expect.

Q. Now, Doctor, is it normal, to have an acceleration when there is a change of environment?

A. One can.

Q. And nutrition? A. Yes.

Q. As a matter of fact, nutrition and environment have considerable to do with the development of the bones, isn't that correct?

A. In that the nutrition and environment influence the hormonal status of an individual.

Q. If a person changed locality of residence, say from the interior of China to Hong Kong, and then subsequently to the United States, could that fact and the change of environment and [270] probably nutrition and better food, cause an acceleration in the growth? A. It could.

Q. And it is possible that maybe malnutrition actually caused a retardation of the bone development? A. That is a possibility.

Q. From the X-rays of January 1957, Doctor, would you state that it would be possible for that boy to be 21 years of age at that time?

A. That is within the realm of possibility, yes.
Mr. Hertogs: I have no further questions.

(Testimony of George Jacobson.)

The Court: I would like to ask the doctor a question or two.

Mr. Hertogs: Yes.

The Court: Doctor, is it possible to determine the age of a youngster accurately by a study of the bones?

The Witness: Your Honor, it depends upon your definition of accuracy.

The Court: All right. Supposing we have a youngster who is nine or ten years of age. Will a study of the bones determine that accurately, or is it more or less a hypothetical age?

The Witness: No. If one assumes that the boy, let us take the age of 10, if one assumes that the boy or the girl is normal, then one should expect [271] the bone age, as given in these standards to correspond fairly closely, and again that is rather an indefinite term, but let us say if the child were 10 and the bone age were seven, you would say that child was probably not normal.

On the other hand, if the child were 10 and the bone age were that of a 13 year old, you would say that is abnormal.

On the other hand, if the bone age corresponded to the standards between 11 and 12, you would say that is within normal variation, just as though physically you looked at a child and somebody told you this was a child of 10 and he looked 14, you would say there is something wrong with the boy, or if he looked six, you would say there is something wrong.

(Testimony of George Jacobson.)

But our experience in just looking at people tells us there is some variation in normal which we have by our experience learned to allow for. That is pretty much the same thing with bone age. It does reflect the physiologic status of the individual within a fair degree of accuracy, so that we have learned to rely on them, and particularly where we have consecutive films, such as we have here. That is even a more important aspect of this, is to have film from one age, and then have them several years later. It gives us a much closer tolerance.

The Court: Can you estimate the age of a boy [272] by looking at him, by visual observation?

The Witness: I am probably no better at it, sir, than most other people, but we all learn to do that more or less, by looking at individuals as we walk down the street. Even from the rear, we learn to estimate the age fairly well.

The Court: Assuming that a qualified radiologist examined this boy in 1951, took X-rays, examined the bone structures, and came to the conclusion he was nine or ten years of age, according to the bone structures, would you say that would be an accurate way to estimate his age?

The Witness: That would be a fairly accurate way, sir, to estimate the physiologic age.

The Court: Then his real age, that is, his calendar age, and his physiologic age, wouldn't be the same?

The Witness: In the normal individual who has undergone normal growth, normal maturation, they

(Testimony of George Jacobson.)

correspond fairly close. When there are abnormalities, then you get into complications and there are many, many things which influence bone age.

The Court: The only abnormality we would have in this case, as far as I know, is the fact that this boy lived in the interior of China, he was there during the war, there was a shortage, probably, of food. Now, if I remember the testimony in this case, that was the only thing that could be, the only explanation you would have as to why [273] the boy wouldn't have grown properly.

Would the lack of food, lack of nutrition, have any effect whatsoever upon the development of the bones?

The Witness: Oh, yes, sir. That is a strong factor, sir. For instance, if one examines first and second generation people in this country, as they come across from Europe, from Central Europe particularly, the first generation is rather small, and the second generation is usually an inch or two inches taller.

That is, to the best of my opinion and people I have talked to, largely a matter of environment and nutrition, not heredity obviously. So that nutrition is a very important factor in the size and growth of an individual and in his maturation.

The Court: Mr. Hertogs, you don't know of any diseases that this boy had in the record, do you? That is, the record doesn't indicate any diseases of any kind?

Mr. Hertogs: No. I might tell the court we have

(Testimony of George Jacobson.)

had tests made of this boy of every possible known test. However, such tests would only show what was present at this date. Those tests are all negative. The only thing that developed was that the boy did have malaria from the age of 3 until the time he went to Hong Kong. Outside of that, he said he lived a normal life.

The Court: Would malaria have anything to do [274] with the development of the bones, Doctor?

The Witness: I am frank to say, sir, I don't know. I would imagine if a person had malaria of any severity, he would be quite sick and, being sick, his physiologic state would be lowered, and from that standpoint I could imagine it, but I have no knowledge of any direct relationship.

I think there is evidence here that there is—the difference between this first set of films taken in Hong Kong and the one taken by Dr. Robinson in San Francisco would to me be a little on the unusual side in that there is some acceleration of growth here, and that is maintained on the last set of films.

The Court: Well, considering the X-rays that were taken in Hong Kong, would you put that on the shadow box first?

(Witness complying.)

The Court: In the examination of those X-rays, would you have come to the conclusion that the boy was nine or 10 years of age?

The Witness: I would have, according to these standards that we have here, your Honor, I would

(Testimony of George Jacobson.)

have placed him somewhere between the ages of 10 and 11, which is not too far off from nine and 10. I would say according to these pictures here, he is probably closer, he fits closest to the 10 year standard and possibly between the 10 and 11. He doesn't fit very well the nine year standard at all. [275]

The Court: When you were here on another case, I asked you about the accuracy of your determination as to the age, and you told me that, if I remember correctly, that it was impossible to pinpoint the age, and all you could do was give a minimum and a maximum.

The Witness: Yes, sir. At the age of 10, one has a variation, maximum variation, of two years, that we accept as a normal variant.

The Court: All right. Supposing the boy is 10. Then the boys would show he was either eight years of age or 12 years of age.

The Witness: Yes.

The Court: So you have got a spread there of four years.

The Witness: Yes, sir, two years on each side of zero.

The Court: What is the age you claim this boy was at the time the X-rays were taken?

Mr. Hertogs: He was 15 something at the time this first X-ray was taken.

The Court: All right. That's all I wanted to know.

Doctor, would you tell me that those X-rays could indicate a 15 year old boy?

(Testimony of George Jacobson.)

The Witness: I would say this, sir. If this boy [276] is stated to me to be 15, then I would say these X-rays are definitely abnormal.

The Court: In other words, if the boy was 15 at the time the X-rays were taken, then the X-rays are abnormal?

The Witness: Yes.

The Court: Because the X-rays won't show a boy of 15?

The Witness: That is correct. They are definitely abnormal then. According to our standards, they could not correspond to a normal boy at the age of 15.

The Court: You are positive of that, are you?

The Witness: Well, sir——

The Court: That is, as far as any doctor can be positive?

The Witness: Yes, sir. I would say unequivocally in my experience these do not correspond to the age of a normal boy of 15.

The Court: Would they correspond if this so-called normal boy had had a period of malnutrition?

The Witness: Well, of course that—I have seen X-rays, sir, of children of 12 and 15 with a bone age of 3 and 4. I have seen as much as a 10-year variation with certain illnesses. I have not had a vast experience, living in this country, I have not had a vast experience with malnutrition. Fortunately, we don't run into very many instances of [277] malnourished children. Occasionally we do

(Testimony of George Jacobson.)

see one that is brought into the hospital where there has been a family circumstance, as you have undoubtedly seen, of much malnourished children, and those children will have retarded bone age.

The Court: All right. Mr. Dooley?

Mr. Dooley: I only have one or two questions.

Cross Examination

Q. (By Mr. Dooley): Doctor, in the case of malnutrition, where two persons, two children, say, growing up in the same family eat the same food throughout their lives, is it likely that malnutrition will affect both of the children equally? What is the situation in that regard?

A. That is a very difficult question, Mr. Dooley, because what you are asking me, if I understand your question correctly, is, given a substandard diet for two individuals who are very closely related, so that you would expect their reaction would be much the same, would those two individuals react the same. That is a very difficult question to answer. It is almost impossible to answer that question. One would normally expect that two individuals, again with certain limits, would react fairly much the same to a substandard diet but, of course, as you know, some people have more resistance to change than others, so that is why your question is difficult. [278]

Mr. Dooley: No further questions.

Mr. Hertogs: I want to ask the doctor one further question.

(Testimony of George Jacobson.)

Redirect Examination

Q. (By Mr. Hertogs): Referring to the X-ray of January 31, 1952, along the same line of examination by Judge Westover, is that picture closer to the normal age if that boy was over 16 at that time?

A. If you tell me this boy is—how old is he now?

Q. At that time he would be 16½.

A. I would say that is still abnormal.

Q. That is still abnormal? A. Yes.

Q. But that is closer to the normal age than the picture reflected by the March 1951 X-ray?

A. Slightly, not much more than slightly. If you tell me this boy is 16½ and his bone age corresponds to roughly 12½, or the absolute maximum on this film here of 13 years and 3 months, but more closely to that of 12 years and 6 months, there is a four-year discrepancy, which is somewhat beyond normal expectation.

Q. However, it is not beyond the possibility, [279] given an abnormal condition?

A. An abnormal condition, you see, these standards are set up for normal, and given an abnormal condition, almost anything can happen.

Mr. Hertogs: I have no further questions, your Honor.

Mr. Dooley: I have no further questions.

The Court: May the doctor be excused?

Mr. Dooley: The doctor may be excused as far as I am concerned.

The Court: Doctor, you may be excused.

The Witness: Thank you, sir.

(Witness excused.)

The Court: Before we proceed, I think I will take the afternoon recess while I read this case of Judge Mathes, so we will recess until 11:00 o'clock.

(Recess.)

Mr. Hertogs: At this time, your Honor, I would ask that the last two exhibits marked Plaintiffs' exhibits for identification be received in evidence.

The Court: They may be received in evidence.

The Clerk: 13 and 14.

(The exhibits referred to were received in evidence and marked as Plaintiffs' Exhibits 13 and 14.)

The Court: Now, Mr. Hertogs, for the purpose [280] of the record I am going to allow you to renew the motion you made previously, and particularly the one you made at the beginning of the hearing today relative to the deposition that was filed and received in evidence in this case.

Mr. Hertogs: At this time, your Honor, the plaintiff moves that the Exhibit C, which is the deposition taken in Hong Kong, be stricken from the record on the grounds that no foundation has been laid for its admissibility, that the deposition itself shows that the person who testified in Hong Kong admitted he had had no experience or no training as a radiologist; that the plaintiff was denied the right of cross examination of the person who gave that deposition, even though proper notice was served upon counsel, inasmuch as the party who was then testifying was in Hong Kong, and

the plaintiff was unable to bear the expenses of paying the transportation of counsel to Hong Kong and back, and it was inconvenient for counsel likewise to appear in Hong Kong for that purpose.

And on the further ground that it would have been possible for the government to find an expert witness within this locality and within the jurisdiction of the court, who could testify in this matter inasmuch as the deposition related solely to the testimony of an expert witness, and not to a single witness who would ordinarily testify in another type of civil proceeding.

In this particular case, it is not a question of one [281] person who has knowledge concerning the subject matter, but is one which there are numerous experts available in this locality to testify on.

The Court: Now, Mr. Hertogs, I notice there was a notice of taking deposition on oral examination, and this notice was directed to the plaintiffs and to Jackson and Hertogs, their attorneys. The notice says the deposition would be taken in Hong Kong on November 5, 1956, at 10:00 o'clock in the forenoon before the Vice Consul of the United States.

Do you find any fault with the notice?

Mr. Hertogs: None whatsoever, your Honor, because counsel made no objection to the fact that it was being taken before the Consul, which is actually associated with the defendant.

The Court: If you had notice, the plaintiff could have obtained someone to represent him at that hearing, could he not?

Mr. Hertogs: That is correct.

The Court: And in the light of what has recently happened in San Francisco, you possibly might have got an order from the court to allow you to go to Hong Kong as an officer of the court for the taking of the deposition. I don't know whether you could or not, but you might have.

Mr. Hertogs: At that time I didn't think it [282] appropriate to ask the court to pay my expenses.

The Court: Well, now, the notice was given and the deposition was taken at the time and place of the notice, is that correct?

Mr. Hertogs: I believe so, your Honor. I have no objection to the notice whatsoever.

The Court: Then the doctor appeared under the deposition for the purpose of giving testimony.

Mr. Hertogs: That is correct.

The Court: You have no fault with the way the questions were put to the doctor?

Mr. Hertogs: None whatsoever.

The Court: Your only objection is to the qualifications of the doctor, is that correct?

Mr. Hertogs: I think on the face of the deposition it shows the doctor did not have the qualifications of an expert witness.

The Court: I might not have been willing to have taken the testimony of this doctor standing alone, but in the light of the testimony of Dr. Jacobson, who says that, assuming that the doctor was qualified, he came to the right conclusion, how

can I then rule he wasn't qualified? He came to the right conclusion from the X-rays themselves.

Mr. Hertogs: Counsel, of course, is put in a rather embarrassing position by the admission of [283] that evidence, your Honor, because by the admission of the deposition, then counsel is called upon to offer expert testimony of Dr. Jacobson this morning. However, if the deposition had not been admissible——

The Court: Mr. Hertogs, I wanted Dr. Jacobson here because I was rather of the opinion he was going to help your case. I felt his testimony would raise such a question in my mind, that it would be a matter of taking the opinion of one expert against another expert, but when your doctor comes in and verifies the finding of the first expert, then there is no difference of opinion.

Mr. Hertogs: There is a difference of opinion, very definitely, between the testimony of the expert in Hong Kong and the testimony of Dr. Jacobson this morning.

The Court: What is the difference in opinion?

Mr. Hertogs: In the first place, the one in Hong Kong is based upon the one X-ray taken on March 19, 1951, in which he finds nine or ten years of age, and Dr. Jacobson testified this morning from the charts of a normal individual it would be ten or eleven, which is not much different. However, comparing that to the X-ray taken in January 1952, there he puts it between 12-6 and the last one could be even 13-3.

The Court: I know, but the doctor says that

assuming that the boy was normal when the X-rays were taken in Hong Kong, he could find no fault with the conclusions of the doctor. [284]

Mr. Hertogs: That is correct.

The Court: Now, we don't have anything in the record to show any abnormality with the possible exception of malnutrition.

Mr. Hertogs: That is correct, and which he says is a very deciding factor.

The Court: But what evidence is there in the record about malnutrition? We know that the Japanese came in and the people ran to the hills and there was probably a shortage of food. We know that. We can probably take judicial knowledge of the fact that when a conquering army comes in, the resident populace probably has less food than under normal conditions, but that doesn't in itself establish malnutrition, does it? It is just possible the mother gave all the food to the children. It has been done. It is an argument, but I don't think there is any evidence to sustain it.

Mr. Hertogs: Outside of judicial notice, I don't know how it could be proven today. We have unfortunate conditions existing which make it impossible.

The person who would be the best witness is the mother and the mother is not available.

The Court: That is true. That is perfectly true.

The doctor testified that this was taken in his office March 14, 1951, and after that he made a radiological examination for the purpose of [285] estimating the age. After making this examination,

he came to the conclusion that the boy was nine or ten years of age. I don't know how, in the light of the evidence in this case, I can disregard that finding. If the finding is true, if that is the proper age of the boy, then the government should have a judgment.

Mr. Hertogs: If that was the right chronological age, yes.

The Court: If that is the right chronological age.

Mr. Hertogs: I would agree if that were the right chronological age. There would be no question about it. But that is only a physiological age as determined by the bone development as shown in that one X-ray picture at that time, but, however, over the next nine-month period you have a very definite acceleration, he says slight, but he put it at 10 or 11, and 9 months later it is 12 years and 6 months, and at the last he says it could even be 13-3, but taking the lower figure, taking the upper figure of the first one, which would be 11, and taking the lower figure of the next X-ray, which is 12-6, there you have a year and a half growth of bone development in a nine-month period. That is taking the minimum. That shows a very definite increase in the development after the boy reached Hong Kong, with a change in environment and nutrition.

Then you have got the same thing, taking the difference between 1952 and the one now. You have [286] got a very definite increase. Taking the top bracket, either one, or taking the lower bracket,

you have got more than a five-year variation. It is only five years chronologically.

I think the court agrees that the doctor has testified, and if you take the one in there, it is more definite, but this Dr. Jacobson has testified that Exhibit C, which is the one of March 1951, shows 10 or 11 years of age, and he has testified the one in January 1952 shows 12 years and 6 months, or even possibly 13 years and three months. Now, the chronological period between the time of taking those two X-rays was nine months. However, the difference between the bone development in that same period of time is certainly more than 18 months.

The Court: When was the plaintiff born in this case?

Mr. Hertogs: 1935, your Honor.

The Court: That is the American age?

Mr. Hertogs: No, 1936. Mr. Dooley has it there.

Mr. Dooley: April 30, 1935.

The Court: American?

Mr. Hertogs: Yes.

Mr. Dooley: Yes, your Honor.

The Court: If the plaintiff was born in 1935, and Exhibit 13 was taken in January 1952, there is a difference of 17 years. According to the doctor, [287] the plaintiff was $12\frac{1}{2}$ years of age at that time.

Mr. Hertogs: He said $12\frac{1}{2}$ to 13-3.

The Court: Well, take 13.

Mr. Hertogs: He would be 16-9. That is three years and six months difference.

The Court: It is true he said there was a spread here of four years, that is, two years on each side, but you are still beyond the spread on the upper side.

Mr. Hertogs: Not according to Judge Denman. You will recall that in one case, your Honor, Judge Denman stated, "If I had been an applicant applying for admission to the United States at the age of 10 years, I would have been rejected and turned down erroneously because I had the physical appearance of a boy of more than 14 at that time."

The Court: That's right, but he didn't have his bones examined. That is what we are referring to now.

Mr. Hertogs: Well, usually the stature runs along with the bone development, because when the bone development quits, that is when the growth quits.

I also think the court is well aware of the demeanor of the witness when he testified. It certainly wasn't that of a young boy.

The Court: Well, Mr. Hertogs, I will be very frank in saying to you that if I was relying upon the testimony of the witnesses in this case, [288] with the exception of this deposition, I would find in favor of the plaintiff. If this deposition wasn't before me, I would find in favor of the plaintiff. We wouldn't have had this argument.

Mr. Hertogs: I well realize the problem the court is confronted with, and that is why I had Dr. Jacobson make such a thorough examination in this case.

The Court: I wanted Dr. Jacobson to make the examination, because I wanted to be sure in my mind. I didn't want to do an injustice to the boy. If Dr. Jacobson had come in and testified that the doctor in Hong Kong was wrong, that he came to the wrong diagnosis, then I could have said, "Well, the doctors don't agree and I don't know which one I could rely on." Then I would hold that the government hadn't sustained the burden, but when the doctor comes in and says, "Yes, assuming that the doctor was qualified, from these X-rays he came to the right conclusion."

You know, when Exhibit 3-E was introduced, that is the group photograph showing the plaintiff on the extreme right——

Mr. Hertogs: That's right.

The Court: I was struck with the fact that it appeared to me that the plaintiff was too small for the age alleged, particularly when I compared it to the other boy in the picture of about the same age. The one was big and husky and the other was skinny and scrawny. [289]

Mr. Hertogs: They testified that he is younger.

The Court: That's right, that is their testimony.

Mr. Hertogs: Yes, your Honor.

The Court: That has bothered me because it seems to me that the pictures don't sustain the testimony. But, however, I would have accepted the testimony of these witnesses in regard to that matter if it hadn't been for this deposition. That is why the deposition is so important and that is why I allowed you to make the motion again so

as to be sure to get in all the objections and to find out the technical objections you had because, regardless of the way I decide this case, I want a good record to go to the Circuit, and I want the Circuit to know exactly my feelings in regard to the matter. Regardless of whether I decide this case for the plaintiff or for the defendant, I urge both of you to appeal. I would like definitely to have this case go on an appeal.

Mr. Hertogs: It is one of the most interesting cases I have had.

The Court: It is an important question we have here.

Mr. Hertogs: As a matter of fact, I will tell your Honor I spent hours trying to find a case directly in point with respect to the deposition of an expert witness taken away from the locality and place of trial and could not find a single case, except I happened to stumble on this one which refers to it in an offhand way. [290]

The Court: I read that case. I don't think Judge Mathes' case does you very much good. You think it does. I don't know. I have read it. I hoped he was talking about depositions, but that was not the case.

Mr. Hertogs: I was particularly impressed, your Honor, I don't know how the court was impressed by the testimony, but referring to that Exhibit 3, if there had been anything false in this particular case or they had wanted to make a substitution, which they have done in other cases, they could have said that this plaintiff was the youngest boy

and used the youngest boy's name, who was supposed to be about two years younger, and we would never have had the problem of age brought up at any time. But as the court will recall, they said, "No, he is the bigger one, because he is older, but he was the smaller one in stature."

Then they compared that picture to the picture attached to the certificate of identity, which has a date on it, and then if you compare it to the one that is attached to the Hong Kong certificate of identity issued by the police department, there seems to be a fantastic growth or an aging of that boy in a short period of time.

The Court: Mr. Hertogs, as I said before, and I reiterate, and I hope if the case is taken up to the Circuit you will underline my reiteration, if it wasn't for this deposition, I would hold in favor [291] of the plaintiff, because I was satisfied with the testimony of the plaintiff's witnesses. I would have held for the plaintiff from the bench, I wouldn't have had to study the record, because I was satisfied, but in the light of that deposition and the findings of the doctor, which has been substantiated by the doctor who testified today, I don't see how I can get around the finding as to his bone age. The X-rays are here and the X-rays haven't been changed.

Mr. Hertogs: No.

The Court: The doctor over in Hong Kong finds he was between nine and ten years of age, and Dr. Jacobson said this morning, assuming that the doctor who made the examination in Hong Kong was

qualified, then he would be justified in finding that the plaintiff, from the X-rays, was nine or ten years of age.

Mr. Hertogs: However, he testified that the X-rays themselves, according to his charts, were of a person, if he were normal, of 10 or 11.

The Court: This has been a difficult case, Mr. Hertogs. I know you have made a number of trips down here from San Francisco, but in the light of the testimony that has been introduced, I don't see how I can do anything except find in favor of the government with the hope that you will appeal.

Mr. Dooley, when you prepare your findings of [292] fact and conclusions of law, will you be very particular to find, or to set out what I am basing my conclusions on?

Mr. Dooley: I will do that, your Honor.

The Court: I want this case to go to the Circuit upon a very clean-cut and clear-cut issue.

Mr. Hertogs: Is the motion denied, your Honor?

The Court: The motion is denied.

Mr. Hertogs: Is the judgment for the government as to both plaintiffs or for one plaintiff?

The Court: I beg your pardon?

Mr. Hertogs: Is this judgment for both plaintiffs or just one of them?

The Court: How about the other plaintiff, Mr. Dooley? Your only question on the other plaintiff is that if there was a mistake, as far as the plaintiff we have been talking about, then I should disregard the testimony of the other witnesses?

Mr. Dooley: Yes, your Honor. I have presented that argument to the court.

The Court: I won't pay very much attention to that argument, Mr. Dooley.

Mr. Dooley: Yes, your Honor.

The Court: Which is the plaintiff that we have been talking about?

Mr. Hertogs: Wong Kwok Wei is the younger [293] one who was under discussion on the age determination. Wong Kwok Keung is the older brother.

The Court: I will find in favor of the older boy.

The Clerk: That is Wong Kwok Keung?

The Court: Yes, and I find against the younger boy.

Mr. Hertogs: Wong Kwok Wei.

Mr. Dooley: Thank you, your Honor.

The Court: Mr. Dooley, will you prepare the findings of fact and conclusions of law in both cases?

Mr. Dooley: I will do that, your Honor.

Mr. Hertogs: We won't have any disagreement on that.

The Court: I know you won't, but I want to be sure that there is inserted in the findings the reason I am holding against the boy. It is primarily because of this deposition.

Mr. Hertogs: I might tell your Honor there will be an appeal.

The Court: I hope there will be an appeal because I would like for the Circuit to make a ruling.

Let's have the Ninth Circuit pave the way and make a ruling.

Mr. Hertogs: I think Mr. Dooley researched the question. You could find no case on the point, could you?

Mr. Dooley: No, your Honor.

Mr. Hertogs: I really researched it for over 10 hours, your Honor. [294]

The Court: I don't doubt that at all. I am satisfied I have had the advantage of the authorities. So we will pass it on to the Circuit now.

Mr. Dooley: Thank you, your Honor.

Mr. Hertogs: Thank you.

The Court: Court will stand in recess now. [295]

[Endorsed]: Filed June 6, 1957.

[Endorsed]: No. 15626. United States Court of Appeals for the Ninth Circuit. Wong Ho, as Guardian ad Litem of Wong Kwok Wei, Appellant, vs. John Foster Dulles, as Secretary of State, Appellee. Transcript of Record. Appeal from the United States District Court for the Southern District of California, Central Division.

Filed: July 16, 1957.

Docketed: July 16, 1957.

/s/ PAUL P. O'BRIEN,
Clerk of the United States Court of Appeals for
the Ninth Circuit.

In the United States Court of Appeals
for the Ninth Circuit

No. 15626

WONG HO as Guardian ad Litem of WONG
KWOK WEI, Appellant,
vs.

JOHN FOSTER DULLES, as Secretary of State,
Appellee.

STATEMENT OF POINTS ON WHICH AP-
PELLANT INTENDS TO RELY ON AP-
PEAL

Comes now Wong Kwok Wei, by and through his attorney Joseph S. Hertogs, and files herein a statement of points on which appellant intends to rely in the appeal of the above-entitled matter:

1. The District Court erred in concluding that the plaintiff-appellant, Wong Kwok Wei, is not a United States citizen.

2. The District Court erred in admitting, over objection, defendant's Exhibit C.

Dated: August 12, 1957.

JACKSON & HERTOGS,
/s/ By JOSEPH S. HERTOGS,
Attorneys for Appellant.

[Endorsed]: Filed August 13, 1957. Paul P. O'Brien, Clerk.

[Title of Court of Appeals and Cause.]

STIPULATION AND ORDER

It is hereby stipulated and agreed, by and between the parties hereto through their respective counsel, that the exhibits listed in the "Designation of Record on Appeal" may be considered in their original form without printing.

Dated: August 5, 1957.

/s/ JOSEPH S. HERTOGS,
Attorney for Appellant.
LAUGHLIN E. WATERS,
United States Attorney,

/s/ JAMES R. DOOLEY,
Asst. United States Attorney,
Attorneys for Appellee.

So ordered: August 9, 1957.

/s/ RICHARD H. CHAMBERS,
Judge, United States Court of Appeals for the
Ninth Circuit.

[Title of Court of Appeals and Cause.]

DESIGNATION OF RECORD TO BE INCORPORATED IN TRANSCRIPT ON APPEAL

Wong Kwok Wei, appellant in the above-entitled matter, by and through his attorney, Joseph S. Hertogs, (in accordance with Rule 75(a) of the Federal Rules of Civil Procedure) hereby desig-

nates the following to be included in the Transcript on Appeal on his pending appeal from the judgment made, filed and entered in said matter, March 13, 1957:

1. Petition for Declaratory Judgment.
2. Answer of Defendant.
3. Stipulation dated February 21, 1952.
4. Order substituting party defendant.
5. Order for change of venue.
6. Notice of taking deposition on oral examination.
7. Transcript of evidence and proceedings on the trial, including statements by the Court.
8. Findings of Fact, Conclusions of Law and Judgments filed in this case.
9. Notice of appeal.
10. Stipulation of parties that exhibits may be considered in their original form without printing.
11. Statement of points on which appellant intends to rely on appeal.
12. This designation.

Dated: August 5, 1957.

JOSEPH S. HERTOGS,
Attorney for Appellant.

[Endorsed]: Filed August 13, 1957. Paul P. O'Brien, Clerk.

